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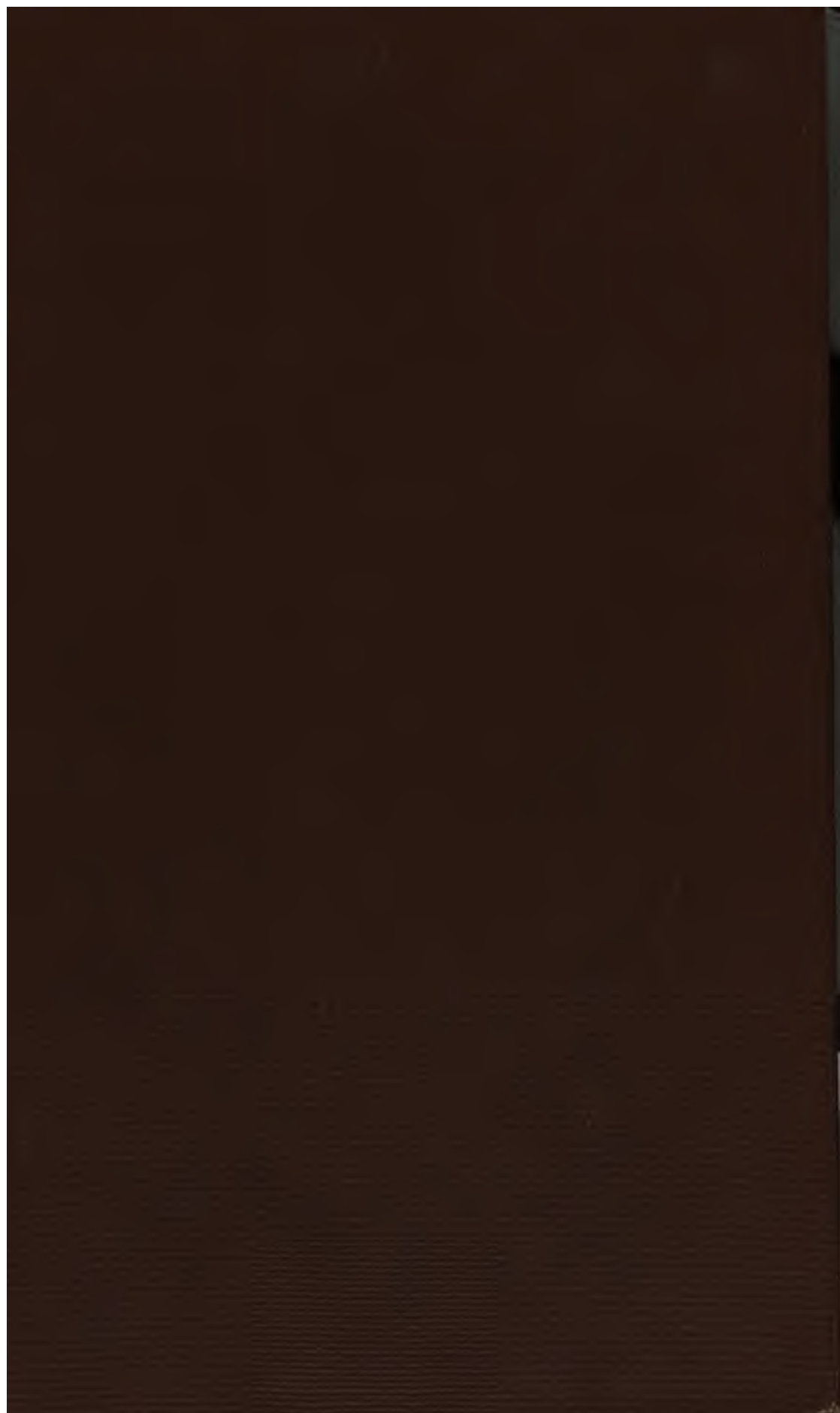
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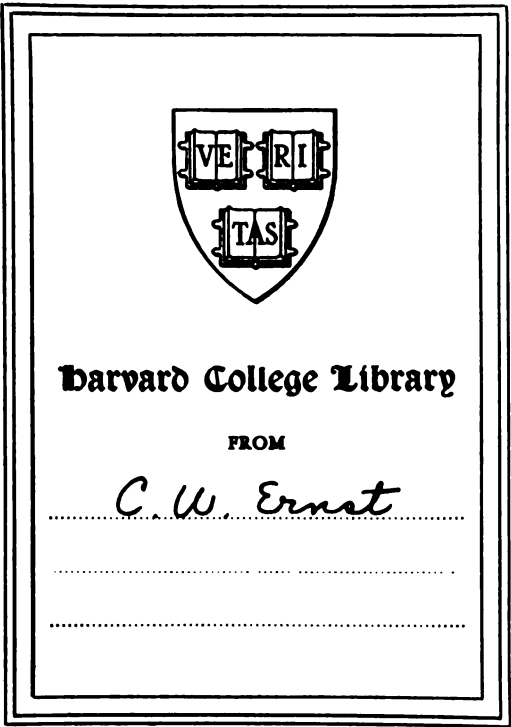
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US 13172.89



THE
REVISED ORDINANCES
OF 1885,

OF THE
CITY OF BOSTON,—

AS PASSED AND APPROVED DECEMBER 14, 1885.

(With Amendments thereto, Passed and Approved, to May 1, 1886):

BEING
THE NINTH REVISION.

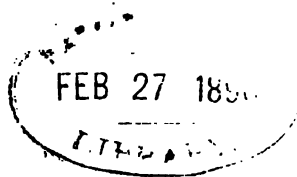
TO WHICH ARE ADDED THE REVISED STANDING REGULATIONS
OF THE BOARD OF ALDERMEN.

Published by Order of the City Council.



BOSTON:
ROCKWELL AND CHURCHILL, CITY PRINTERS,
1886.

WS 13172.89
~~Mass. Dec. 12, 25, 209~~



G. W. Ernst,
Boston.

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383,572

Aug. 5, 1888

CITY OF BOSTON.

Ordered, That the Joint Standing Committee on Ordinances be directed to have prepared an edition of twenty-five hundred copies of the Revised Ordinances of 1885 and of the Revised Standing Regulations of the Board of Aldermen, with all changes in either to the latest available date, to be printed as a public document; such edition to be furnished with suitable foot-notes and index, the expense of preparing which shall not exceed four hundred dollars, and shall be charged to the appropriation for Incidentals. All preceding votes relating to such publication are hereby rescinded.

IN COMMON COUNCIL, January 21, 1886.

Passed.

Sent up for concurrence.

IN BOARD OF ALDERMEN, February 8, 1886.

Concurred.

Approved by the Mayor, February 10, 1886.

A true copy.

Attest :

AUG. N. SAMPSON,
City Clerk.

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PREFACE.

Prior to the work which resulted in the present consolidation there have been eight distinct editions of the ordinances, each representing an attempt to perform the necessary duty of revising the accumulations of the intervening periods.

These editions vary considerably in size and somewhat in plan; but in every case they expressly repeal their predecessors, and are now of value only as references to guide us in tracing the course of municipal legislation.

The following is a complete list of editions issued:—

1. — 1827. "The Charter of the City of Boston, and Ordinances made and established by the Mayor, Aldermen, and Common Council, with such Acts of the Legislature of Massachusetts as relate to the Government of said City. Compiled and arranged in pursuance of an order of the City Council. Boston: True & Greene, City Printers, 1827." Pp. 260 and xv.
2. — 1834. "The Charter and Ordinances of the City of Boston, together with the Acts of the Legislature relating to the City. Collated and revised, pursuant to an order of the City Council, by Thomas Wetmore and Edward G. Prescott, Commissioners. Boston: J. H. Eastburn, City Printer, 1834." Pp. 300 and xxvii.
3. — 1850. "The Charter and Ordinances of the City of Boston, together with the Acts of the Legislature relating to the City. Collated and revised, pursuant to an order of the City Council, by Peleg W. Chandler. Boston: John H. Eastburn, City Printer, 1850." Pp. xxix. and 582.
4. — 1856. "The Charter and Ordinances of the City of Boston, together with the Acts of the Legislature relating to the City, and an Appendix. Published by order of the City Council. Boston: Moore & Crosby, City Printers, 1856." Pp. xxxv. and 793.

[It appears by the preface that Messrs. A. K. P. Joy, F. L. Washburn, and Charles Mayo, all members of the City Council, were employed by the Committee on Ordinances to prepare the volume, and by the City Council directed to publish it.]

5. — 1863. "The Charter and Ordinances of the City of Boston, together with the Acts of the Legislature relating to the City, and other municipal laws. Published by order of the City Council. Boston: J. E. Farwell & Co., Printers to the City, No. 37 Congress street, 1864." Pp. xvii. and 958.

[It is stated that this edition was codified and revised by George P. Sanger and John G. Locke. The preface is dated February, 1864, but bound copies are indorsed 1863.]

- 5*. — "A Supplement to the Laws and Ordinances of the City of Boston. Prepared and printed under the direction of the Committee on Ordinances. Boston: J. E. Farwell & Company, Printers to the City, 37 Congress street, 1866." Pp. vi., 340, viii., 157, and 21.

[The preface is signed H. T. R., *i.e.*, H. T. Rockwell. The sixth part, or Digest, is signed by James C. Davis. The Index, part seven, was doubtless prepared by J. M. Bugbee. As issued as a bound volume this Supplement contains: (1.) Rules and Regulations of the different departments; (2.) Special Acts incorporating companies to hold large amounts of real estate within the city limits; (3.) Agreements chiefly between the City of Boston and other corporations and parties in respect to the new lands on the Back Bay; (4.) Trusts; (5.) Historical References; (6.) Decisions of Supreme Judicial Court of Municipal Interest; (7.) Index to City Documents from 1834 to 1864.]

6. — 1869. "Ordinances and Rules and Orders of the City of Boston, together with the General and Special Statutes of the Massachusetts Legislature relating to the City. Published by order of the City Council. Boston: Alfred Mudge & Son, Printers, 34 School street, 1869." Pp. ix. and 829.

[The preface, signed by the Committee on Ordinances, shows that the work was performed mainly by Messrs. Healy, McCleary, and Bugbee, respectively the City Solicitor, City Clerk, and Clerk of Committees.]

- 6*. — 1874. "Ordinances and Rules and Orders of the City of Boston, passed between the 1st Jan., 1870, and the 1st Aug., 1874. Published by order of the City Council. Boston: Rockwell & Churchill, City Printers, 122 Washington street, 1874." Pp. 146.

[It seems that an annual publication had been made of the Acts and Ordinances, from 1869 to the end of 1873, paged consecutively, and ending with p. 333. The volume for 1874 begins again with p. 1, and includes all Ordinances in that year passed after Aug. 1st, the date of the publication of the above Supplement.]

The new series, 1874 and 1875, reached 160 pages, and these gave way to the next revision.]

7. — 1876. "Ordinances and Rules and Orders of the City of Boston, together with a Digest of the General and Special Statutes of the Massachusetts Legislature relating to the City. Published by order of the City Council. Boston: Rockwell & Churchill, City Printers, No. 39 Arch street, 1876." Pp. viii. and 1023.

[In the preface the Committee on Ordinances states that the work was performed by James M. Bugbee.]

- 7*. — [The annual publication of the Acts and Ordinances was resumed in 1877, and continued through 1881, extending to 239 pages.]

8. — 1882. "Revised Ordinances of the City of Boston, as passed prior to December 31, 1882, being the Eighth Revision. To which are added the Revised Regulations of the Board of Aldermen. Published by order of the City Council. Boston: Rockwell & Churchill, City Printers, 1882."

[The revision was made by a commission appointed by the Mayor, and consisting of Uriel H. Crocker, Esquire, Alderman Stebbins, and Councilmen Wharton and Morse.

The report of the Commissioners was referred to a special committee, consisting of Aldermen Hart, Hall, Woolley, Pratt, and Hersey; Councilmen Whitmore, Freeman, Parkman, Huntress, Wharton, Cummings, Dana, Morse, and Emery; and their report was finally adopted by the City Council, Dec. 28, 1882, and approved by the Mayor, Dec. 29, 1882.]

The present revision, which is the ninth, was rendered necessary by the passage, by the Massachusetts Legislature, of an act making radical changes in the executive administration of the affairs of the city. The act is Chapter 266 of the Acts of 1885. Under an order passed by the City Council, and approved June 9, 1885, the Mayor appointed Messrs. Wm. H. Whitmore and Henry W. Putnam as Commissioners to make the revision, and their report, when completed, was submitted to the City Council in Doc. No. 115, and by it referred to the Committee on Ordinances, consisting of Aldermen Allen, Smith, and Cutter, and Councilmen Emmons, Harding, Osborne, Jenkins, Coe (afterward Dewey *vice* Osborne, *resigned*).

The report of the Committee (City Doc. 137) was made to the Board of Aldermen, Oct. 19, 1885, final action being taken in the Common Council, Dec. 10, 1885, and the ordinances as adopted were approved by the Mayor, Dec. 14, 1885.

The amendments made since the Revised Ordinances were adopted, are referred to in the marginal notes, and have been published as city documents, as follows : —

Doc. 173, 1885, Amending chap. 6, R. O.		
Chapter 1,	Doc. 49, 1886,	Amending chap. 15, R. O.
“ 2,	“ 50, “	“ chap. 15, R. O.
“ 3,	“ 51, “	“ chap. 42, R. O.
“ 4,	“ 69, “	“ chap. 6, R. O.
“ 5,	“ 74, “	“ chap. 28, R. O.
“ 6,	“ 76, “	“ chap. 48, R. O.
“ 7,	“ 77, “	“ chap. 6, R. O.
“ 8,	“ 78, “	“ chap. 6, R. O.
“ 9,	“ 79, “	“ chap. 6, R. O.
“ 10,	“ 80, “	“ chap. 6, R. O.
“ 11,	“ 86, “	“ chap. 6, R. O.
“ 12,	“ 91, “	“ chap. 6, R. O.
“ 13,	“ 92, “	“ chap. 6, R. O.

The only ordinance not included in this volume is the ordinance on the Division of Wards, approved December 23, 1885, Doc. 174, which was not numbered as a chapter of the Revised Ordinances.

In this, as in the previous volume containing the Revised Ordinances, the Standing Regulations of the Board of Aldermen are included. To conform to the provisions of Chapter 266 of the Acts of 1885, previously referred to, the Regulations have been revised by a special committee of the Board of Aldermen, consisting of Aldermen Freeman, Capen, and Barr.

The headings to the various chapters, together with the notes and index to both the Revised Ordinances and the Revised Standing Regulations of the Board of Aldermen, were prepared by Henry W. Putnam, Esq., under the direction of the Committee on Ordinances.

JAMES G. FREEMAN,
CHARLES H. ALLEN,
HENRY F. COE,
WILLIAM H. WHITMORE,
JOHN H. LEE,
WILLIAM B. F. WHALL,
WILLIAM H. MURPHY,
EDWARD J. JENKINS,

Committee on Ordinances.

CITY OF BOSTON.

REVISED ORDINANCES
OF 1885.

AS PASSED AND APPROVED

DECEMBER 14, 1885.

Be it ordained by the City Council of Boston, as follows: —

CHAPTER 1.

GENERAL PROVISIONS.

Section.

1. Ordinances, enacting style of.
2. to be printed, published, and recorded, except, etc.; general revisions or codifications exempt.
3. These ordinances to be known as "Revised Ordinances of 1885," their effect, etc.
4. Acts done, rights accrued, penalties incurred, etc., not to be affected.

Section.

5. General penalty for breaches.
6. Employers and other persons liable to penalty.
7. Acts prohibited being done without license may be licensed.
8. Construction of words "street" and "streets."

SECTION 1. All by-laws of the city shall be denominated ordinances, and the enacting style shall be, "Be it ordained by the city council of Boston, as follows."

Ordinances, en-
acting style of.
R. O. p. 3.

SECT. 2. Every ordinance, and every amendment to an ordinance, shall be printed under the supervision of the city clerk as a city document within ten days after its passage, and, except when otherwise provided, shall be published by the city clerk for two weeks successively in three daily newspapers published in the city. The city clerk shall keep a continuous record of all the ordinances and amendments thereto. Every general revision or codification of the ordinances shall be exempted from the foregoing rules, and shall be published by the action of the city council in passing the same.

To be printed,
published, and
recorded, ex-
cept, etc.
Ord. 1883, ch. 2.

General revi-
sions or codifica-
tions exempt.

These ordinances to be known as "Revised Ordinances of 1885," their effect, etc.
R. O. pp. 3, 4.

SECT. 3. The ordinances contained in this chapter and in the following sixty-one chapters shall be known as the "Revised Ordinances of 1885," and, so far as their provisions are the same in effect as those of previously existing ordinances, they shall be construed as continuations of those ordinances; but, subject to the said limitation and to the provisions of the next section, all ordinances of the city heretofore in force are hereby repealed.

Acts done, rights accrued, penalties incurred, etc., etc., not to be affected.
R. O. p. 4.

SECT. 4. These Revised Ordinances shall not affect any act done, any right accrued, any penalty incurred, any suit, prosecution, or proceeding pending, or the tenure of office of any person holding office, at the time when they take effect, nor shall the repeal of any ordinance thereby have the effect of reviving any ordinance theretofore repealed or superseded.

General penalty for breaches of ordinances.
R. O. p. 4.

SECT. 5. Whoever violates a provision of any ordinance of the city, whether included in these Revised Ordinances or hereafter enacted, shall, unless other provision is expressly made, be liable to a penalty of not less than two nor more than fifty dollars for each offence.

Employers and other persons liable to penalty for breaches of.
R. O. p. 4.

SECT. 6. When anything is prohibited in an ordinance, not only the persons actually doing the prohibited thing, but also the employers and all other persons concerned therein, shall be liable to the penalty prescribed.

Acts prohibited being done without license may be licensed.
R. O. p. 4.

SECT. 7. When in an ordinance anything is prohibited from being done without the license or permission of a certain officer or officers, such officer or officers shall have the power to license or permit such thing to be done.

Construction of words "street" and "streets."
R. O. p. 4.

SECT. 8. The words "street" and "streets," when used in an ordinance, shall be construed as including alleys, lanes, courts, public squares, public places, and sidewalks, unless such construction would be inconsistent with the manifest intent of the ordinance.

NOTES.

"The word ordinance, as applied to cities, shall be synonymous with the word by-law." P. S. c. 3, § 3, cl. 15.

The power to make ordinances is given by section 35 of the city charter, which provides that the city council "shall have power to make all such needful and salutary by-laws or ordinances, not inconsistent with the laws of this commonwealth, as towns by the laws of this commonwealth have power to make and establish, and to annex penalties, not exceeding fifty dollars, for the breach thereof."

The general provision giving to towns the power to make by-laws is to be found in P. S. c. 27, § 15, which enacts that towns may make by-laws "for directing and managing the prudential affairs, preserving the peace and good order, and maintaining the internal police thereof." There are various other statute provisions giving towns authority to make by-laws in special cases; those provisions will be referred to under the ordinances on the special subjects to which they relate.

The earliest statute (passed in 1636) on the subject of the power of towns to make by-laws, provided that the freemen of towns might "make such orders as may concerne the well ordering of their owne townes, not repugnant to the lawes and orders here established." 1 Mass. Col. Rec. 172. In 1670 the statute authorized the freemen of towns "to make such laws and constitutions as may concern the welfare

of their town, provided they be not of a criminal, but of a prudential nature." Ancient Charters, p. 195. In the later Prov. St. 1692, c. 28, § 5, we find substantially the language of the present statute.

What was meant by the "prudential affairs" of a town was considered in the case of *Willard v. Newburyport* 12 Pick. 227, 231; and it was there said by Chief-Justice Shaw that "perhaps no better approximation to an exact description can be made, than to say that they embrace that large class of miscellaneous subjects, affecting the accommodation and convenience of the inhabitants, which have been placed under the municipal jurisdiction of towns by statute or usage." The same question was further discussed by Judge Shaw in *Spaulding v. Lowell*, 23 Pick. 71, 77.

Under the general statute provisions above cited, it has been held that a city might pass an ordinance prohibiting the keeping of swine in certain districts within the city limits. *Commonwealth v. Patch*, 97 Mass. 221. Or prohibiting the removal of house dirt or offal by any person not licensed thereto by the mayor and aldermen. *Vandine, Petitioner*, 6 Pick. 187. Or prohibiting fast driving in the streets; *Commonwealth v. Worcester*, 3 Pick. 462, 473; provided the ordinance definitely fixes the rate of speed prohibited, and does not leave it open to inquiry into the circumstances of each case to determine whether the speed was illegal, which would "partake rather of the character of a law than of a by-law." *Commonwealth v. Roy*, 140 Mass. 432, 433, *W. Allen, J.*, p. 433. Or regulating the driving of cattle through the streets. *Commonwealth v. Curtis*, 9 Allen, 266, 268, 271. — *Commonwealth v. Bean*, 14 Gray, 52, 53. Or prohibiting farmers, residing in the vicinity of the city, from occupying with their carts places in certain streets for the purpose of selling certain produce. *Nightingale, Petitioner*, 11 Pick. 168, 171. — *Commonwealth v. Rice*, 9 Met. 253, 258. — *Commonwealth v. Brooks*, 109 Mass. 355, 358. Or forbidding any person to enter his private drain into a public sewer without a permit from the board of aldermen. *Ranlett v. Lowell*, 126 Mass. 431, 432. Or prohibiting any person from maintaining an awning before his house or store without the consent of the mayor and aldermen. *Pedrick v. Bailey*, 12 Gray, 161, 162. — *Heald v. Lang*, 98 Mass. 581. The power of the court to declare an ordinance void on the ground that it is unreasonable will be cautiously exercised. *Commonwealth v. Robertson*, 5 Cush. 438, 442.

An ordinance is binding upon strangers coming within the territorial limits of the city. *Vandine, Petitioner*, 6 Pick. 187.

An ordinance cannot become obsolete by non-enforcement or repeated violation. It remains in force until repealed. *Commonwealth v. Davis*, 140 Mass. 485, 486.

An ordinance which provided that each person who entered his private drain into a common sewer should pay, towards the expense of such sewer, a sum in proportion to the last tax valuation of his estate, has been held to be void, as being unequal and unreasonable. *Boston v. Shaw*, 1 Met. 130, 137.

So also an ordinance has been held to be void, which required the licensing of those who should engage in the business of carrying persons for hire between the city making the ordinance and an adjoining town. *Commonwealth v. Stodder*, 2 Cush. 562, 576.

For other cases in which by-laws have been held to be void, as being unreasonable, see *Austin v. Murray*, 16 Pick. 121, 125. — *Boston v. Shaw*, 1 Met. 130, 137.

A town by-law, which imposed a penalty on the sale, without a license, of intoxicating liquors within the town, has been held to be void, as being, independent of any statute provisions on the subject, an attempt to regulate by a by-law a subject not properly subject to such regulation. *Commonwealth v. Turner*, 1 Cush. 493.

An ordinance is not rendered void by being passed in violation of the joint rules and orders of the city council. *Chandler v. Lawrence*, 128 Mass. 213, 215. See also *Bennett v. New Bedford*, 110 Mass. 433, 437, 438. — *Holt v. Somerville*, 127 Mass. 408, 411.

As to the power of the city council to pass ordinances relative to the

tenure of office, duties, and compensation of city officers, see notes to chapters 4 and 6.

As to the power of the city council to pass ordinances relating to the duties of committees, see *Worden v. New Bedford*, 131 Mass. 23, 24.

As to the general powers of cities and towns to pass ordinances and by-laws, see also *Dillon on Municipal Corporations*, 3d ed., §§ 306, 407. — *Glover on Municipal Corporations*, pp. 279, 280, 287–307.

Where an ordinance gives the mayor and aldermen authority to grant a license or permission to do a certain thing, the aldermen cannot delegate such authority to the mayor alone. *Day v. Green*, 4 Cush. 433, 438.

“Where a by-law is entire, each part having a general influence over the rest, if one part is void, the whole is void; but where a by-law consists of several distinct and independent parts, though one or more of them is void, the rest is valid. And this rule is applicable to the different clauses of the same by-law; for, where it consists of several particulars, it is, to all purposes, as several by-laws, though the provisions are thrown together under the form of one.” *Metcalf, J.*, in *Amesbury v. Bowditch Mut. Fire Ins. Co.*, 6 Gray, 596, 607. See also *Commonwealth v. Dow*, 10 Met. 382, and *Dillon on Municipal Corporations*, 3d ed., § 421.

An ordinance does not impose upon the city any greater liability in tort to third persons than would exist without it. *Lyon v. Cambridge*, 136 Mass. 419. See also *Fallon v. Boston*, 3 Allen, 38.

An ordinance takes effect immediately upon its passage, unless its language shows that it is to take effect at some later time. *Commonwealth v. Brooks*, 109 Mass. 355, 357.

SECT. 1. It is provided by statute that the “enacting style” of ordinances shall be such as may be prescribed by ordinance. St. 1881, c. 229, § 3.

SECT. 2. It is provided by special statute that the “method of publishing” the ordinances “shall be such as the city shall by ordinance prescribe.” St. 1881, c. 229, § 3. See also P. S. c. 27, § 23, requiring all by-laws of towns to be published. The requirement of this ordinance as to publication is directory only, and non-compliance with it does not necessarily invalidate an ordinance. *Commonwealth v. Davis*, 140 Mass. 485. P. S. c. 27, § 21, does not apply to ordinances of the City of Boston. See § 35 of City Charter and *Commonwealth v. Davis*, 140 Mass. 485.

SECT. 4. As to the effect of this section, so far, as it relates to the tenure of office and the liability of the sureties on an officer's bond, see *Cambridge v. Fifield*, 126 Mass. 428, 430.

SECT. 5. The general limit to the penalties that may be imposed by ordinance is fifty dollars. City Charter, § 35. In special cases, however, the limit is sometimes fixed by statute at an amount greater or less than that just named.

An ordinance which authorized the imposition of a penalty of five dollars for every hour during which a person should keep his cart in a certain place, has been held to be void, as authorizing the punishment of a single continuous offence, occurring upon one and the same day, by a penalty which, being computed according to the terms of the ordinance, might exceed the limit (\$20 in this case) of the penalty which the city was allowed to fix. *Commonwealth v. Wilkins*, 121 Mass. 356. The authority of the fire department being to make regulations subject to penalties provided for the breach of the city by-laws (St. 1850, c. 262), a regulation of that department imposing the forfeiture of a month's pay of one hundred dollars as a penalty for a violation of its rules, is void. *Tyng v. Boston*, 133 Mass. 372.

All penalties for breaches of ordinances are to be paid into the city treasury, “unless otherwise provided by statute or ordinance.” St. 1881, c. 229, § 4.

As to the mode of enforcing penalties for breaches of ordinances, see P. S. c. 27, §§ 19, 130. — P. S. c. 28, § 26. — P. S. c. 161, § 9. — P. S. c. 214, § 23 — St. 1817, c. 50, § 3. Complaints for violations of ordinances are criminal prosecutions and to be construed with the same strictness as indictments. *Commonwealth v. Bean*, 14 Gray, 52. They must conclude “against the form of the Statute,” etc. *Commonwealth v. Gay*, 5 Pick. 44. See St. 1886, c. 58, repealing P. S. c. 213, § 17, and St. 1885, c. 144.

CHAPTER 2.

OF WARRANTS FOR ELECTIONS.

Section.
1. Form.
2. Service and return.

Section.
3. Time of opening and closing polls
to be fixed and inserted in.
4. Notices of elections to be published
in newspapers.

SECTION 1. The form of warrants for calling meetings of the citizens of the several wards within their respective precincts shall be as follows : —

CITY OF BOSTON.



To either of the constables of the City of Boston : In the name of the Commonwealth of Massachusetts you are required forthwith to warn the inhabitants of ward number , qualified as the law directs, to assemble at the several polling-places within the voting precincts in which they respectively reside, namely : In precinct

Form.
R. O. p. 7.

No. at on the day of next at o'clock A.M., then and there to give in their ballots for

Hereof fail not, and have you there then this warrant with your doings thereon.

Witness Esquire, chairman of the board of aldermen of the City of Boston, this day of in the year of our Lord one thousand eight hundred and .
By order of the board of aldermen.

City Clerk.

SECT. 2. Every such warrant shall be served by a constable, who shall, ten days at least before the time appointed for the meeting, post up an attested copy of the warrant at or near the polling-place in each voting precinct of the ward within which the meeting is to be held, and all such warrants shall be returned to the wardens of the several voting precincts on or before the time prescribed for the meetings called thereby.

Service and return.
R. O. p. 7.

SECT. 3. The board of aldermen shall fix, within the limits prescribed by law, the time when the polls in the several voting precincts shall be opened and the time when they shall be closed at each election, and they shall insert in every warrant for an election a statement of the times so fixed.

Time of opening and closing polls to be fixed and inserted in.
R. O. p. 7.

Notices of elections to be published in newspapers.
R. O. p. 8.

SECT. 4. In addition to causing the warrants to be served as prescribed in section two, the city clerk shall cause to be published, as seasonably as possible, in at least four daily newspapers published in the city, a statement of the officers to be chosen, or of the proposition to be submitted, at the meeting, the day on which the meeting is to be held, and of the hours fixed for the opening and closing of the polls; but a failure to comply with the requirements of this section shall not invalidate an election.

NOTES.

Section 61 of the city charter provides that all "warrants for the meetings of the citizens for municipal purposes . . . shall be issued by the board of aldermen, and in such form, and shall be served, executed, and returned at such time and in such manner, as the city council may, by any by-law or ordinance, direct and appoint."

Warrants of meetings for the election of national, state, district, county, and municipal officers must contain a notice that such officers are to be voted for on one ballot, and must specify the time when the polls will be opened and the time when they will be closed. St. 1884, c. 299, §§ 1, 2.

SECT. 1. See St. 1878, c. 243, § 4.

SECT. 2. As to the power of constables to serve election-warrants, see P. S. c. 27, § 119, and St. 1802, c. 7, § 1.

SECT. 3. The requirements of the law as to the hours during which the polls must be opened at elections are to be found in St. 1884, c. 299, §§ 1, 2. P. S. c. 7, §§ 1, 2 are repealed by St. 1884, c. 299, § 44.

For the provisions of law in relation to registration and elections in Boston, see §§ 57-61 of the city charter; St. 1878, c. 243; St. 1880, c. 225; St. 1882, c. 204; and the general election law, St. 1884, c. 299.

CHAPTER 3.

OF THE USE OF WARD-ROOMS.

Section.

1. Permits for meetings in, how granted, etc.
2. To be reserved for designated days for party caucuses.
3. Expenses of opening, lighting, etc.
4. Persons improperly taking part in such meetings liable to penalty and to expulsion.

Section.

5. Police to be notified of such meetings, etc.
6. List of voters of ward to be posted in each ward-room.
7. Penalty for tearing down or mutilating such list.
8. A copy of this chapter to be hung up in ward-rooms, and permits to be subject to its provisions.

SECTION 1. When written application is made to the superintendent of public buildings, by not less than five legal voters of a ward, for the use of the ward-room in such ward for the purpose of holding a meeting therein, the said superintendent may grant a permit to such applicants for the use of such ward-room for a specified time and purpose, subject to the provisions of this chapter; but no permit, unless it is expressly so stated therein, shall extend to an adjournment of the meeting for which it is granted, and a permit may be revoked at any time by the mayor. The application for a permit for the use of a ward-room shall set forth the call of the meeting which it is proposed to hold, and every notification of a meeting to be held in a ward-room shall specify that all persons who may be present at such meeting shall be subject to the provisions of this chapter.

Permits for meetings in, how granted, etc.
R. O. p. 9.

SECT. 2. When an organized political body calls caucuses or ward meetings for a designated day, no person, except the recognized agents of such body, shall, prior to the morning of the day fixed for such meetings, be granted the use of a ward-room for such day.

To be reserved for designated days for party caucuses.
R. O. p. 9.

SECT. 3. The applicants to whom such a permit is granted shall, before the issuing thereof, pay to the superintendent of public buildings such sum of money as will in his opinion be sufficient to defray the expense of opening, closing, lighting, and heating the ward-room during the time specified in the permit.

Expense of opening, lighting, etc.
R. O. p. 9.

SECT. 4. If a person not a legal voter in the ward in which a meeting under a permit granted as above provided is held, or a person not included in the call for such meeting, marks or votes at such meeting; or if a person, whether a legal voter in such ward or not, against the expressed consent of such applicants or of a major part of such of them as are present, marks or votes in the choice of candidates, or otherwise votes or speaks or remains at said meeting or at an

Persons improperly taking part in such meetings liable to penalty and to expulsion.
R. O. pp. 9, 10.

adjournment thereof, he shall be liable to a penalty of not more than twenty dollars for each offence; and any police officer, if so directed by said applicants, or by a major part of such of them as are present, or by the presiding officer of the meeting, shall remove from the ward-room the person so offending.

Police to be notified of such meetings, etc.
R. O. p. 10.

SECT. 5. When such a permit is granted, the superintendent of public buildings shall notify the board of police, and request them to detail a sufficient police force to be present and keep the peace at such meeting and at any adjournment thereof, and to obey the lawful orders of the applicants, or of a major part of such of them as are present, and of the chairman or presiding officer of the meeting, and to enter complaints for all violations of this chapter.

List of voters of ward to be posted in each ward-room.
R. O. p. 10.

SECT. 6. As soon as the list of voters in a ward is prepared for any election, a copy of such list shall be posted or hung up by the superintendent of public buildings in the ward-room of the ward in such a manner as to be readily accessible to the public, and such copy shall remain in such ward-room till after the next election, and until a new and revised list is substituted therefor.

Penalty for tearing down or mutilating such list.
R. O. p. 10.

SECT. 7. Any person, other than the superintendent of public buildings or some person by him duly authorized, who carries away, destroys, breaks, or mutilates a copy of a list of voters posted or hung up as provided in the preceding section, shall be liable to a penalty of not more than twenty dollars for each offence; but the provisions of this section shall not apply to the mere erasure of the name of a person who, at the time of such erasure, has actually ceased to be a legal voter in the ward.

A copy of this chapter to be hung up in ward-rooms, and permits to be subject to its provisions.
R. O. p. 10.

SECT. 8. It shall be the duty of the superintendent of public buildings to cause to be suitably framed and hung up in some conspicuous place in each of the ward-rooms of the city a printed copy of this chapter, and it shall be specified in every permit granted as before provided, that it is granted upon the terms and subject to the provisions of this chapter.

NOTES.

Persons smoking in or bringing liquor into such a meeting as is mentioned in this chapter may be required to withdraw. See P. S. c. 7, § 64.

The statutes provide a penalty for voting under a false name at such a meeting. P. S. c. 7, § 56. Also for unlawfully disturbing such a meeting. P. S. c. 207, § 23.

SECTION 1. Revocation of permit for use of ward-room must be by the mayor or the proper executive officer under him. St. 1885, c. 266, § 6. The "care, custody, and management" of all public buildings, which was previously vested by the charter in the city council (St. 1854, c. 448, § 39), is vested in the mayor and the superintendent of public buildings, and can no longer be controlled or participated in by a joint committee as was formerly the case. St. 1885, c. 266, §§ 6, 12.

CHAPTER 4.

OF CITY OFFICERS AND BOARDS.

Section.	Section.
1. Tenure of office of city officers and subordinates.	11. Boards and officers to make quarterly reports of money received, etc.
2. <i>Pro tempore</i> officers, when and how appointed.	12. Articles, etc., sold, records to be kept of, and bills to be made.
3. Record of appointments and removals, how kept.	13. Bills for city collector to be sent to him in alphabetical lists by wards, etc.
4. Office hours, leave of absence, and vacations; mayor may order city hall and public offices closed.	14. Certificates of abatements, etc., to city collector, etc., refunding of abatements.
5. Office hours of city treasurer and city collector.	15. Bills and demands against city to be sent to city auditor monthly, etc.
6. Office hours of city registrar and board of health.	16. City property not to be sold, exchanged, etc., except, etc.
7. Extra hours and duties may be required of subordinates.	17. Annual reports of departments.
8. Organization of boards, time and manner of.	18. City officers to subscribe to acceptance of office.
9. Records of boards and officers, how kept; to be open to inspection.	19. Assistants, clerks, laborers, etc., may be employed when, etc.
10. Compensation of city officers, and of officers <i>pro tempore</i> , how fixed.	20. Appointments annually of heads of departments not obligatory.

SECTION 1. Except where it is otherwise expressly provided, every officer of the city, unless sooner removed, shall hold office for one year from the first Monday in April in the year in which he is elected or appointed; and, whatever may be the time fixed for the expiration of his term of office, shall continue to hold his office, after such expiration, until a successor is elected or appointed and qualified in his stead. Any vacancy, occasioned by the removal, resignation, or death of such an officer, may at any time be filled for the unexpired term. The term of office of all subordinates in the several departments whose compensation is specifically fixed by ordinance or provided for by appropriation, shall be deemed to continue so long as the appropriation therefor is renewed, unless they are removed by their respective superiors according to law or discharged as unnecessary.

SECT. 2. Whenever an officer, appointed by the mayor and confirmed by the board of aldermen, shall be temporarily unable to discharge the duties of his office, the mayor may appoint, subject to the confirmation of the board of aldermen, a person to discharge such duties until the mayor decides that such inability has ceased.

SECT. 3. Whenever an officer shall be appointed by the mayor, and confirmed by the board of aldermen, a record thereof shall be made by the city clerk in a book to be kept by him for the purpose. Whenever an officer is removed by the mayor the city clerk shall obtain from the mayor a copy

Tenure of office
of city officers.
R. O. p. 11.

of subordi-
nates.

Pro tempore
officers, when
and how ap-
pointed.
R. O. p. 11.

Record of ap-
pointments and
removals, how
kept.
R. O. p. 11.

of the order of removal, and record the same and the cause of removal therein assigned in the said book. Whenever any board, or any officer other than the mayor, shall remove a subordinate, the order of removal and the cause assigned therein shall be entered in full on the records of the department in which he served.

Office hours.
R. O. pp. 11, 12.

SECT. 4. The office hours, or hours of labor, of the several heads of departments and of the clerks and other officers connected with the city government, who perform clerical or office duties, shall, with the exceptions hereinafter mentioned, be from nine o'clock in the forenoon until five o'clock in the afternoon, on every day except Sundays and legal holidays; except that on Saturdays the city offices shall be closed at two o'clock in the afternoon.

Leave of
absence and
vacations.

The mayor may grant leave of absence in writing, with or without loss of pay, to all officers appointed by him, and the boards or officers in charge of departments may grant similar leave of absence to any of their subordinates, subject to revocation by the mayor. All salaried subordinates and officers shall be entitled to a vacation of a fortnight's duration, without loss of pay, during a year of employment. The mayor may order City Hall, or the offices contained therein, and all other public offices, to be closed for any period, not exceeding one day at a time, whenever he deems such action expedient.

City hall and
public offices
may be ordered
closed by mayor,
etc.
Order city coun-
cil, Dec. 20, 1881.
Office hours of
city treasurer
and city col-
lector.
R. O. p. 12.

SECT. 5. The offices of the city treasurer and city collector shall be open for the receipt and disbursement of money from nine o'clock in the forenoon until two o'clock in the afternoon on every day except Sundays and legal holidays.

of city regis-
trar.

SECT. 6. The city registrar's office shall, in addition to the hours provided in section four, be open for the receipt of returns from undertakers, and for the issuing of certificates to parties intending to be joined in marriage, from eleven o'clock in the forenoon until twelve o'clock, noon, on every day in the year. The office of the board of health shall, in addition to the hours provided in section four, be open for the issuing of permits for burials and of permits for the removal of dead bodies, from ten o'clock in the forenoon until twelve o'clock, noon, on every day in the year.

of board of
health.
R. O. p. 12.

Extra hours and
duties may be
required of sub-
ordinates.
R. O. p. 12.

SECT. 7. Any subordinate may, in case of necessity, be required by the board or officer in charge of the department with which he is connected, to perform, without extra compensation, service on week-days for a greater number of hours than is before specified, and to discharge all official duties which may be assigned to him at any time by said board or officer, whether the same be those usually attaching to his position or not.

Organization of
boards, time
and manner of.

SECT. 8. Except where otherwise provided, every board shall organize on the first Monday in May, annually, by the choice of one of its members as chairman, and of a clerk,

who shall not receive a salary for such services if he be a member, and who shall be sworn to the faithful discharge of his duties.

SECT. 9. It shall be the duty of every board or officer in charge of a department to preserve complete records of the transactions of such department in books kept specially for the purpose, and files of its papers. Such records of boards shall be made up on the day of the meeting by the clerk of such meeting, and be read and approved at the next meeting, and shall give the names of the members present at meetings, and their votes and proceedings thereat. All such records and files, and the records and files of the public institutions at South Boston and at Deer Island, of the city hospital (except the medical records), the public library, the water department, the fire department, the overseers of the poor, the Mount Hope cemetery, and the East Boston ferries, shall, under the supervision of the several boards having charge of said institutions and departments, be open to public inspection and examination, and any person may take copies therefrom; but this shall not apply to matters which the corporation counsel affirms should not be made public.

Records of boards and officers, how kept.

Certain records and files to be open to inspection.
R. O. p. 12.

SECT. 10. All officers and subordinates, whose election or appointment is provided for by ordinance, shall, except where it is otherwise expressly provided, receive such compensation for their services as the city council may from time to time determine. When by reason of death, resignation, or other cause, there is a vacancy in an office which is required to be filled by appointment by the mayor, subject to confirmation by the board of aldermen, the person designated by the mayor to perform temporarily the duties thereof shall receive the compensation attaching thereto; *provided, however*, that if he is already an officer of the city he shall receive, in addition to his regular salary as such, only such compensation as the city council shall determine.

Compensation of city officers, how fixed.
R. O. p. 12.

Compensation of officers *pro tempore*.

SECT. 11. All boards and officers of the city, other than the city collector, who are entitled to receive money for or on behalf of the city, shall in the months of February, May, August, and November in each year lay before the city council statements of the whole amount of money received at their respective offices during the three preceding months, specifying in detail the sums received from each source of income. They shall also report any amounts which remain due to the city and unpaid, and shall report, generally, such other information as they may possess concerning the matters to which said statements relate.

Boards and officers to make quarterly reports of money received, etc.
R. O. pp. 12, 13.

SECT. 12. When any board or officer in charge of a department sells articles or materials belonging to the city, or does, or causes to be done, for any person or corporation work for which money becomes or will become due to the

Articles, etc., sold, accounts to be kept of and bills to be made, etc.
R. O. p. 75.

city, he shall enter in books to be kept for the purpose all such sales and all such work done, with the prices therefor, and shall forthwith make out bills for the same and deliver them to the city collector for collection.

Bills for city collector to be sent to him in alphabetical lists, by wards, etc.

SECT. 13. Every department whose bills are to be collected by the city collector shall, except where otherwise provided, send to him alphabetical lists, by wards, of such bills entered in proper detail in suitable books, and all columns of figures shall be added up and carried forward continuously to the end of such list.

Certificates of abatements, etc., to city collector, etc.

SECT. 14. Any board or officer in charge of a department making an abatement of any assessment, betterment, rate, or due which has been committed to the city collector, shall give to the person interested a certificate thereof, directed to the said collector. If the latter officer holds the bill unpaid he shall amend the amount due accordingly; if it has been paid he shall give a certificate of that fact; and the city treasurer, on presentation of both certificates, shall refund the amount of such abatement to the person who paid the bill.

Refunding of abatements.

Bills and demands against city to be sent to city auditor monthly, etc.

SECT. 15. Every board or officer in charge of a department shall, on or before the twentieth day of each month, send to the city auditor all the bills or demands against the city incurred by such department, which have been received and approved within the preceding month. Such bills shall be marked as approved by a vote of the board or by the officer in charge of the department, and shall be accompanied by such customary vouchers, schedules, or requisitions, as the auditor may require, and also by evidence of the votes, contracts, or other authority under which the expenditure was incurred.

City property not to be sold, exchanged, etc., except., etc.

SECT. 16. No board or officer in charge of a department shall sell, exchange, or otherwise dispose of any property of the city, exceeding in amount the sum of twenty-five dollars, without the written consent of the mayor; nor, in case the value exceeds five hundred dollars, without also the authority of an order of the city council first obtained.

Annual reports of departments.

SECT. 17. Every officer or board in charge of a department shall, in the month of January, unless otherwise specified, submit to the mayor a detailed report of the acts and expenditures of such department for, and abatements of bills rendered by it in, the preceding year; and the mayor shall transmit the same to the city council.

City officers to subscribe to acceptance of office.
Ord. 1883, ch. 10.

SECT. 18. Every officer of the city hereafter appointed in accordance with section three, shall be notified by the city clerk of his appointment, and shall subscribe, in a book to be kept by the city clerk for the purpose, a statement of his acceptance of his office on the conditions expressed in the ordinances of the city.

Assistants, clerks, laborers,

SECT. 19. All assistants, clerks, laborers, and other em-

ployees, not specially named in these ordinances, for whose compensation and employment an appropriation has been made, may be employed so far as a necessity exists, and shall be deemed subordinates of the respective boards and officers in whose departments they serve.

etc., may be employed when, etc.

SECT. 20. Nothing in these ordinances shall be construed to make it obligatory on the mayor to appoint heads of departments annually, if he prefers to avail himself of the provisions of section four of chapter two hundred and sixty-six of the acts of the year eighteen hundred and eighty-five.

Appointments annually of heads of departments not obligatory.

NOTES.

The general power to provide for the appointment of officers is given to the city council by section 38 of the city charter, which enacts that "the city council may provide for the appointment or election of all necessary officers for the good government of said city, not otherwise provided for, and may prescribe their duties and fix their compensation." So far as this authorized the city council to provide for the election of officers, it is repealed by St. 1885, c. 266, §§ 1, 2, except as to "the city messenger, clerk of committees of the city council, and such other clerks and attendants as may be employed by the city council, or either branch thereof." All other officers established by ordinance are to be appointed by the mayor, subject to confirmation by the board of aldermen, "for such terms of service, respectively, as are or may be fixed by law or ordinance," and may be removed by the mayor "for such cause as he shall deem sufficient, and shall assign in his order for removal." St. 1885, c. 266, § 1. All subordinates established by ordinance in the several departments shall be appointed absolutely by their respective superiors (St. 1885, c. 266, § 5), except the assistant assessors, who shall be subject to confirmation by the mayor (St. 1885, c. 266, § 2); and they may be removed by their respective superiors "for such cause as they may deem sufficient, and shall assign in their order for removal." St. 1885, c. 266, §§ 2, 5. For the general provisions of law governing the selection of officers and laborers in the service of cities under rules prepared by the civil service commissioners, see St. 1884, c. 320. As to the constitutionality of that act, and the validity of the rules established by the commissioners under it, see opinion of the justices, 138 Mass. 601, 603-4.

"Unless otherwise provided by constitution or statute, the power of removal is incident to the power of appointment." Gray, C.J., in *Murphy v. Webster*, 131 Mass. 482, 488.

It is further provided by St. 1881, c. 229, § 1, that the city council may "pass ordinances prescribing the duties and fixing the compensation of officers for whose appointment or election they are now or may hereafter be authorized to provide." This statute also provided that an officer might "be empowered by ordinance to hold office for one year from the day in the year of his election or appointment fixed by ordinance, and until his successor shall be elected or appointed and qualified."

Section 43 of the city charter provides that "no person shall be eligible to any office, the salary of which is payable out of the city treasury, who, at the time of his appointment, shall be a member of either the board of aldermen or the common council, and neither the mayor nor any alderman or member of the common council shall, at the same time, hold any office of emolument under the city government." St. 1884, c. 115, makes members of the city council ineligible, during the term for which they are chosen, to any office the salary of which is payable from the city treasury. As to the eligibility of members of city governments generally to offices not of emolument, see P. S. c. 28, § 23; but it is now

provided by St. 1885, c. 266, § 3, that no member of the city council of Boston shall, during the term for which he is elected, be appointed to or hold any office filled by appointment by the mayor subject to confirmation by the board of aldermen, or by election by the city council, whether one of emolument or otherwise.

For statute provisions forbidding members of city governments and the officers and agents of cities to be interested, directly or indirectly, in contracts with the city, see P. S. c. 205, § 12. For other statutes relative to the taking of bribes, commissions, promises, etc., by city officers, see P. S. c. 205, §§ 9, 10, 11, 13.

Where a city council had unreasonably neglected to proceed to the election of an officer whom the city ordinances required to be elected annually, the supreme court issued a mandamus to compel such council to proceed to an election. *Attorney General v. City Council of Lawrence*, 111 Mass. 90. It would seem that the same process would, upon reasonable application, issue against the mayor in the event of his unreasonable neglect to send a nomination, under St. 1885, c. 266, § 1, to the board of aldermen to fill an existing vacancy. See *Attorney General v. Mayor of New Bedford*, 128 Mass. 312; *Farnsworth v. Boston*, 121 Mass. 173, 177, and *Braconnier v. Packard*, 136 Mass. 50.

By section 49 of the city charter it is provided that when "appointments to office are directed to be made by the mayor and aldermen, they shall be made by the mayor, by and with the advice and consent of the aldermen, and such officers may be removed by the mayor." By P. S. c. 28, § 5, it is provided that "when appointments are to be made by a mayor and aldermen, the mayor shall have the exclusive power of nomination, subject to confirmation or rejection by the board of aldermen; and if a person so nominated is rejected, the mayor shall make another nomination within a month from the time of such rejection."

The special provision that the city treasurer and city collector "may be removed by the mayor with the approval of the city council" (St. 1875, c. 176, §§ 1, 2), is repealed by St. 1885, c. 266, §§ 1, 12, which takes away from the city council all participation in the removal of officers, and vests it absolutely in the mayor.

The members of the board of police are appointed by the governor, with the advice and consent of the council, and are removable by the governor, with the advice and consent of the council, for such cause as he shall deem sufficient, and shall express in the order of removal (St. 1885, c. 323, § 1).

The inspector of buildings may be "removed by the mayor for malfeasance, incapacity, or neglect of duty" by virtue of St. 1885, c. 374, § 2, which is subsequent in date to St. 1885, c. 266.

The provision of St. 1857, c. 38, § 4, that members of the board of directors of public institutions may be removed by the city council "for cause shown," is superseded by St. 1885, c. 266, §§ 1, 12, which makes them removable by the mayor alone, for such cause as he shall deem sufficient and shall assign in his order for removal.

Provision for the performance of the duties of the mayor in case of his death, resignation, absence, or inability to perform the duties of his office, is made by St. 1882, c. 182.

As to the effect of the repeal of an ordinance upon the right of an officer appointed for a fixed term to compensation, see *Kimball v. Salem*, 111 Mass. 87.

Sections 2 and 10. Pending confirmation of an officer by the board of aldermen, it would seem to be a necessary incident to the vesting of the executive power of the city in the mayor (St. 1885, c. 266, § 6), that the latter has the power to designate who shall temporarily perform the duties of the office. As to remedy by writ of mandamus, in case of mayor's neglect or refusal to make nominations for vacancy, see cases cited *supra*.

SECT. 9. For similar provision, see P. S. c. 37, § 13.

CHAPTER 5.

OF OFFICIAL BONDS.

Section.

1. Bonds to be given by certain officers.
2. Form of bonds.
3. Approval of bonds.

Section.

4. New bonds required in case of death or insolvency of surety.
5. Custody of bonds.
6. City clerk to furnish blanks for bonds.

SECTION 1. The several officers hereinafter named shall give bonds to the city with sufficient sureties and with penal sums as follows, namely,—the city treasurer, one hundred and fifty thousand dollars; the city collector, seventy-five thousand dollars; the city auditor, five thousand dollars; the city clerk, five thousand dollars; the city registrar, five thousand dollars; the water-registrar, five thousand dollars; the harbor-master, two thousand dollars; the superintendent of Faneuil Hall market, five thousand dollars; the superintendent of health, ten thousand dollars; the superintendent of public buildings, five thousand dollars; the superintendent of sewers, five thousand dollars; the superintendent of streets, five thousand dollars; the superintendent of lamps, five thousand dollars; the superintendent of printing, five thousand dollars; each sealer of weights and measures, three thousand dollars; the chief weigher and inspector of vessels and ballast, one thousand dollars; and every person appointed to receive and collect tolls at the ferries, five thousand dollars, with sureties satisfactory to the board of directors of the ferries.

Bonds to be
given by certain
officers.
R. O. p. 14.

SECT. 2. Each of said bonds shall be in such form as the corporation counsel shall approve, and shall be conditioned for the faithful performance of the duties of the office which is to be filled by the party giving it. The bonds of the city treasurer and the city collector shall be conditioned further for the safe custody of the money and other property intrusted to them and to the officers appointed by them; the bond of the city auditor shall be conditioned further for the delivery to his successor or to the city clerk of all the books, accounts, papers, and other documents and property which belong to his office; and in the bond of any officer whose duty requires him to make contracts, purchases, or sales in behalf of the city, there shall be a condition, in substance, that he will not directly nor indirectly, for himself or for others, or by others in trust for him or on his account, have any interest or concern in a contract, agreement, purchase, or sale made by him in behalf of the city. The sureties on all said bonds, except

Form of bonds.
R. O. p. 14.

those of the treasurer and collector, shall be jointly and severally liable for the whole penalty of the bond; but the liability of the sureties on the bonds of the treasurer and collector may be limited to a several liability for a portion only of the full penal sums named therein.

Approval of
bonds.
R. O. p. 15.

SECT. 3. Each of said bonds and the sureties thereon shall be approved by the board of aldermen, and the bonds of the city treasurer and city collector shall be approved also by the mayor. Each of said bonds, except that of the city clerk, shall be executed, approved, and delivered before the officer giving it enters upon the duties of his office.

New bonds re-
quired in case of
death or insol-
vency of surety.
R. O. p. 15.

SECT. 4. In case of the death or insolvency of a surety on any of said bonds, the officer who has given the bond shall immediately give a new one, as hereinbefore provided, and if he fails to give such new bond within a reasonable time after notice so to do, such failure shall be a sufficient cause for his removal from office.

Custody of
bonds.
R. O. p. 15.

SECT. 5. The city treasurer shall have the custody of the bond of the city auditor, but all the other bonds before mentioned shall be kept in the custody of the city auditor.

City clerk to
furnish blanks
for bonds.
R. O. p. 15.

SECT. 6. The city clerk shall provide from time to time suitable blanks for the aforesaid bonds, and shall, when requested, furnish such blanks free of charge to any officer who may require them.

NOTES.

The city charter provides (section 37) that the city council may "require of all persons intrusted with the collection, custody, or disbursement of public moneys, such bonds, with such conditions and such sureties, as the case may in their judgment require."

The city treasurer and city collector are authorized to require bonds to be given to them by the clerks and other persons in their employ. Rev. Ord. of 1885, c. 12, § 2, and c. 13, § 2.

The board of police is authorized in certain cases to require bonds to be given by members of the police department. Rev. Ord. of 1885, c. 26, § 7.

SECT. 3. The power of approving official bonds seems to be a judicial rather than an executive or administrative one (see Murfree on Official Bonds, § 51 and cases cited), and therefore is not taken from the board of aldermen by St. 1885, ch. 266, §§ 6 and 12.

CHAPTER 6.

OF SALARIES, ALLOWANCES FOR CLERK-HIRE, ETC.

Section.

1. Salaries of city officers.
2. Allowances for clerk-hire, etc.
3. Horse and vehicle for certain officers.

Section.

4. Payment of county salaries.
5. Salaries not to be paid to non-residents, except, etc.

SECTION 1. The following-named officers of the city shall receive yearly salaries as follows, and at the same rate for any portion of a year, and no salary shall be increased or diminished the change to take effect during the term for which any of said officers may be appointed or elected. The said salaries shall be payable monthly, and shall be subject to the deduction of any and all sums due to the city from the officers to whom they are payable : —

Salaries of city officers.
R. O. p. 16.
Ord. 1885, ch. 4.

The mayor, ten thousand dollars.

Ord. 1885, ch. 7.

The city clerk, four thousand dollars.

The assistant city clerk, two thousand five hundred dollars.

Ord. 1883, ch. 11.

The clerk of the common council, two thousand ¹ dollars.

The clerk of committees, three thousand five hundred dollars.

The assistant clerk of committees, one thousand eight hundred dollars.

The messenger of the city council, two thousand two hundred and fifty ² dollars.

The first assistant messenger, one thousand two hundred ³ dollars.

Ord. 1884, ch. 9.

The second assistant messenger, nine hundred ⁴ dollars.

The third assistant messenger, eight hundred ⁵ dollars.

Ord. 1883, ch. 13.

The city treasurer, six thousand dollars.

The treasurer of the board of commissioners on the sinking-funds, seven hundred dollars.

The city collector, five thousand dollars.

The deputy collectors, one thousand seven hundred dollars each ; and the deputy collectors for Dorchester, Brighton, and West Roxbury shall be allowed a further sum, not exceeding two hundred dollars in the aggregate, for horse-hire.

The city auditor, five thousand dollars ; but should he receive any money, directly or indirectly, from the county

Ord. 1884, ch. 15.

¹Amended to "two thousand five hundred" by an ordinance approved April 6, 1886.

²Amended to "two thousand five hundred" by an ordinance approved March 31, 1886.

³Amended to "one thousand five hundred" by an ordinance approved April 12, 1886.

⁴Amended to "one thousand two hundred" by an ordinance approved March 31, 1886.

⁵Amended to "one thousand" by an ordinance approved March 31, 1886.

of Suffolk for services, the said sum shall be reduced by an amount equal to the amount so received.

The corporation counsel, six thousand dollars.

The city solicitor, four thousand five hundred dollars.

Ord. 1884, ch. 14. The first assistant city solicitor, three thousand dollars.

Ord. 1885, ch. 5. The second assistant city solicitor, two thousand five hundred dollars.

The city conveyancers, two thousand five hundred dollars each.

The clerk of the law department, one thousand five hundred dollars.

Ord. 1884, ch. 23. The city engineer, six thousand dollars.

The city architect, three thousand five hundred dollars.

The city surveyor, three thousand three hundred dollars.

The city registrar, two thousand five hundred and fifty dollars.

The members of the board of street commissioners, three thousand dollars each.

The clerk of the board of street commissioners, two thousand dollars.

The superintendent of streets, four thousand dollars.

The superintendent of sewers, three thousand five hundred dollars.

The superintendent of public buildings, three thousand six hundred dollars.

The superintendent of East Boston ferries, two thousand five hundred dollars.

Ord. 1884, ch. 10. The superintendent of the common and public grounds, three thousand dollars.

The superintendent of printing, two thousand five hundred dollars.

The superintendent of Faneuil Hall, five hundred dollars.

The superintendent of Faneuil Hall market, two thousand five hundred dollars, which shall be in full for his services both as such superintendent and as inspector of provisions.

The deputy superintendent of Faneuil Hall market, one thousand five hundred dollars, which shall be in full for his services both as such deputy superintendent and as inspector of provisions.

The weigher at Faneuil Hall market, eight hundred dollars.

The day watchmen at Faneuil Hall market, three dollars each for every day's actual service.

The night watchmen at Faneuil Hall market, three dollars each for every night's actual service.

The inspector of the abattoir, one thousand five hundred dollars.

Ord. 1884, ch. 18. The sealer of weights and measures, two thousand five hundred dollars.

The deputy sealers of weights and measures, one thousand four hundred dollars each. Ord. 1884, ch. 18.

The inspector of buildings, two thousand eight hundred¹ dollars.

The assistant inspectors of buildings, one, one thousand six hundred and fifty dollars, and the others, one thousand five hundred dollars each. Ord. 1883, ch. 17.

The clerk of the inspector of buildings, one thousand five hundred dollars.

The chairman of the board of assessors, three thousand five hundred dollars.

The secretary of the board of assessors, three thousand two hundred dollars.

The three principal assessors, three thousand dollars each.

The first assistant assessors, seven dollars each, and the second assistant assessors, five dollars each, for every day of actual service in street duty or in revising assessments; and each first assistant assessor shall be entitled to receive a further sum of three hundred and fifty dollars for attending the sessions of the board of assessors and of first assistant assessors; but from said sum shall be deducted a proportionate amount for any of such sessions which such assessor has failed to attend. The amount of service rendered by each assistant assessor shall be certified by the secretary of the board of assessors.

The members of the water-board, for each member thereof Ord. 1883, ch. 8. whose term of appointment begins after the first day of May, A.D. 1883, the sum of five dollars for each half day of actual service in such capacity.

The water-registrar, three thousand dollars.

The receiver of water-rates, two thousand five hundred dollars (out of the Cochituate water-works revenue). Ord. 1884, ch. 12.

The members of the board of fire commissioners, three thousand dollars each.

The members of the board of registrars of voters, twenty-five hundred dollars each. Order city council, May 15, 1874.

The members of the board of health, three thousand dollars each.

The superintendent of health, three thousand five hundred dollars.

The inspector of provisions in the health department, one thousand seven hundred dollars.

The inspector of vinegar, one thousand two hundred dollars. Ord. 1883, ch. 15.

The city physician, two thousand seven hundred dollars.

The assistant city physician, one thousand two hundred dollars.

The port physician, one thousand two hundred dollars.

¹ Amended to "three thousand five hundred" by an ordinance approved April 21, 1886.

The assistant port physician, eight hundred and fifty dollars and house-room and board either at Deer Island or at Gallop's Island.

The superintendent of the Boston lunatic hospital, two thousand five hundred dollars and house-room and board for himself and his family in said hospital, which shall be in full for his services as such superintendent and as physician to all the public institutions at South Boston.

The board of police, the chairman, four thousand five hundred dollars; the other members, four thousand dollars each.

The superintendent of police, three thousand dollars.

The deputy superintendent of police, two thousand three hundred dollars.

The probation-officer, appointed under section seventy-eight of chapter two hundred and twelve of the Public Statutes, one thousand five hundred dollars.

The clerk to the board of police, two thousand five hundred dollars.

The clerk to the superintendent of police, one thousand five hundred dollars.

The property clerk, one thousand five hundred dollars.

The matron of the city prison, eight hundred dollars.

The captains, four dollars a day each.

The chief inspector, two thousand dollars.

The inspector of pawnbrokers, four dollars a day.

The inspectors and lieutenants, three dollars and fifty cents a day each.

The assistant inspectors, three dollars a day each.

The sergeants, three dollars and twenty-five cents a day each.

The house watchmen, three dollars a day each.

The patrolmen, if in the first year of their service, two dollars and fifty cents a day; if in the second year of their service, two dollars and seventy-five cents a day; and if they have served more than two years, three dollars a day.

The harbor-master, one thousand five hundred dollars.

R. O. p. 162.

The superintendent of lamps, three thousand five hundred dollars.

The superintendent of bridges, one thousand eight hundred ¹ dollars.

The draw-tender of Broadway bridge, one thousand and fifty dollars; one engineer, whose yearly salary shall be eight hundred dollars, and three assistant draw-tenders, whose yearly salaries shall be six hundred ² dollars each.

Ord. 1984 ch. 13.

The draw-tender of Cambridge-street bridge (Brighton District), Western-avenue bridge to Cambridge, and North Harvard-street bridge, one thousand dollars.

¹ Amended to "two thousand five hundred" by an ordinance approved March 30, 1886.

² Amended to "seven hundred" by an ordinance approved March 31, 1886.

- The draw-tender of Charles-river bridge, one thousand dollars, and four assistant draw-tenders, the yearly salary of one of whom shall be seven hundred¹ dollars, and the yearly salaries of the other three six hundred² dollars each. Ord. 1884, ch. 11.
- The draw-tender of Chelsea bridge (South), between Charlestown and Chelsea, nine hundred dollars, and two assistant draw-tenders, the yearly salary of each of whom shall be seven hundred¹ dollars. Ord. 1883, ch. 17.
- The draw-tender of Chelsea bridge (North), between Charlestown and Chelsea, nine hundred dollars, and an assistant draw-tender, whose yearly salary shall be seven¹ hundred dollars. Ibid.
- The draw-tender of Chelsea-street bridge, three hundred dollars.
- The draw-tender of Commercial Point bridge, fifty dollars.
- The draw-tender of Congress-street bridge, twelve hundred dollars; one engineer, whose yearly salary shall be eight hundred dollars, and three assistant draw-tenders, whose yearly salaries shall be six hundred² dollars each. Ord. 1884, ch. 6.
- The draw-tender of Dover-street bridge, nine hundred dollars, and four assistant draw-tenders, the yearly salary of one of whom shall be seven hundred¹ dollars, and the yearly salaries of the other three six hundred² dollars each.
- The draw-tender of Essex-street bridge, four hundred dollars.
- The draw-tender of Federal-street bridge, one thousand dollars, and three assistant draw-tenders, the yearly salary of one of whom shall be seven hundred¹ dollars, and the yearly salaries of the other two six hundred² dollars each.
- The draw-tender of Granite bridge, two hundred³ dollars.
- The draw-tender of Malden bridge, eight hundred dollars, and an assistant draw-tender, whose yearly salary shall be six hundred² dollars.
- The draw-tender of Meridian-street bridge, nine hundred dollars, and an assistant draw-tender, whose yearly salary shall be six hundred and fifty² dollars.
- The draw-tender of Mount Washington-avenue bridge, twelve hundred dollars, and four assistant draw-tenders, the yearly salary of one of whom shall be seven¹ hundred dollars, and the yearly salaries of the other three six² hundred dollars each. Ord. 1884, ch. 19.
- The draw-tender of Neponset bridge, four hundred dollars.
- The draw-tender of North Beacon-street bridge and of Western-avenue bridge to Watertown, one hundred and fifty dollars.
- The draw-tender of Warren bridge, one thousand dollars; and five assistant draw-tenders, the yearly salary of one of whom shall be seven hundred¹ dollars, and the yearly salary of the other four six hundred² dollars each. Ord. 1885, ch. 3.

¹ Amended to "eight hundred" by an ordinance approved March 31, 1886.

² Amended to "seven hundred" by an ordinance approved March 31, 1886.

³ Amended to "two hundred and forty" by an ordinance approved March 9, 1886.

- Ord. 1883, ch. 6. The commissioner on West Boston bridge and Canal or Craigie's bridge, three hundred thirty-three and one-third dollars; the commissioner on Prison Point bridge, one hundred sixty-six and two-thirds dollars.
The draw-tender of Winthrop bridge, one hundred dollars.

Allowances for
clerk-hire, etc.
R. O. p. 21.

SECT. 2. The following-named officers shall be allowed for the compensation of clerks and other assistants or subordinates employed by them, whose compensation is not otherwise provided for, sums not exceeding those hereinafter set forth, the same to be paid in monthly instalments on pay-rolls certified by the respective officers: —

- Ord. 1885, ch. 6. The mayor, ten thousand dollars.

The city treasurer, twenty-one¹ thousand dollars for his regular officers and clerks.

- Ord. 1885, ch. 1. The city collector, twelve thousand two hundred dollars for his regular officers and clerks; four thousand seven hundred dollars for extra clerks; three hundred dollars (out of the receipts for liquor licenses) for one clerk; and four hundred dollars (out of the Cochituate water-works revenue) for one clerk.

- Ord. 1885, ch. 2. The city auditor, fourteen thousand seven hundred dollars.

- Ord. 1884, ch. 17. The city clerk, thirteen thousand dollars.

- Ord. 1884, ch. 8. The clerk of the common council, one thousand eight hundred dollars.

- Ord. 1884, ch. 2. The registrars of voters, such sum as shall be annually appropriated for their assistant registrars and clerks; but the compensation of an assistant registrar shall not exceed the rate of three dollars and fifty cents for each day of actual service.

- Ord. 1884, ch. 20. The city registrar, six thousand two hundred dollars for his regular clerks, and a sum not exceeding twenty-five cents for information furnished concerning each birth.

Horse and ve-
hicle for certain
officers.
R. O. p. 22.

SECT. 3. The following-named officers shall each be entitled to the use of a horse and vehicle at the expense of the city, the bills therefor to be rendered monthly with the other bills in his department: —

The mayor.

The city engineer.

The inspector of buildings.

The superintendent of streets.

The superintendent of public buildings (one or more).

¹ Amended to "twenty-two" by an ordinance approved December 17, 1885.

SECT. 4. The city auditor shall allow and the city treasurer shall pay to the several officers of the county of Suffolk the salaries and allowances required to be paid to them by the statutes of the commonwealth.

Payment of
county salaries.
R. O. p. 22.

SECT. 5. No salary shall be paid by the city to a non-resident, unless his official duties are to be performed mainly outside of the city limits; but this rule shall not apply to non-residents who held office under the city on the third day of January in the year eighteen hundred and seventy-nine.

Salaries not to
be paid to non-
residents, ex-
cept, etc.
R. O. p. 22.

NOTES.

By section 38 of the city charter (St. 1854, c. 448) the city council may prescribe the duties and fix the compensation of officers established by it, and by St. 1881, c. 229, § 1, the city council may fix by ordinance "the compensation of officers for whose appointment or election they are now or may hereafter be authorized to provide." The statute of 1885, ch. 266, § 1, takes from the city council the power to establish offices to be filled by election (except as provided in § 2), and determines the manner of filling by appointment all offices so established; but it does not take away the power of the city council to prescribe the duties and fix the compensation of the officers.

SECTION 1. The annual salary of the mayor was fixed at ten thousand dollars, pursuant to St. 1885, ch. 266, § 11, and St. 1885, ch. 361, by concurrent vote in June, 1885, which went into effect without the mayor's signature, and by the Revised Ordinances of 1885 passed Dec. 14, 1885. By St. 1885, c. 266, § 11, this salary cannot in any event be fixed at less than five thousand dollars; and no change can be made to take effect before the expiration of the year for which the mayor then in office has been elected. See § 45 of city charter.

The salaries of the members of the board of police are fixed by St. 1885, c. 323, § 4.

Authority to fix by ordinance the salaries of the officers of the police department was specially given by St. 1878, c. 244, § 3, and is not taken away by St. 1885, c. 323. The pay of the police shall not be increased or diminished except by the concurrent action of the city and the board of police. St. 1885, c. 323, § 5.

Authority to fix by ordinance the salary of the inspector of the abattoir is given by St. 1876, c. 144, § 4; of the sealer of weights and measures by P. S. c. 65, § 23.

An assessor is to be paid "two dollars and fifty cents a day for every whole day that he is employed," with such other compensation as the city council may allow. P. S. c. 11, § 95.

The city council is authorized to determine the compensation of the members of the water board, from time to time, by St. 1875, c. 80, § 1, but the salaries of the members cannot be "diminished during the terms for which they are respectively appointed." St. 1875, c. 80, § 3.

The salary of the harbor-master is fixed by ordinance by virtue of St. 1847, c. 234, § 5.

As to the salary of the superintendent of lamps being fixed by ordinance instead of by the board of aldermen as heretofore, see note to c. 34.

Authority to fix the compensation of the inspector of vinegar is given by St. 1883, c. 257, § 2.

As to the city council's power to fix the compensation of the superintendent of the lunatic hospital, see St. 1851, c. 243, § 1.

As to the salaries of the city collector and his deputies, see also St. 1875, c. 176, §§ 2, 3. As to the salary of the city registrar, see P. S. c. 32, §§ 12, 16. As to the salaries of the inspector of buildings and his assistants, see St. 1885, ch. 374, § 1.

The registrars of voters are to "receive such annual compensation as the city council may from time to time determine; but any reduction of compensation shall take effect upon such registrars only as shall be appointed after such reduction." St. 1874, c. 60, § 3.

The street commissioners "shall each receive an annual salary of not less than two thousand dollars, which . . . shall be fixed by the city council." St. 1879, c. 198. The clerk of said commissioners "shall receive such salary for his services as the city council may determine." St. 1870, c. 337, §§ 4, 5.

For certain salaries fixed by the board of aldermen see "STANDING REGULATIONS OF ALDERMEN," c. 2.

The city council has the power to establish salaries for the park commissioners (St. 1875, c. 185, § 2), and for the board of directors for public institutions (St. 1857, c. 35, § 3), but has never exercised it. The park commissioners are authorized to fix the compensation of their subordinates. St. 1875, c. 185, § 3.

The trustees of the public library (St. 1878, c. 114, § 3) and of the city hospital (St. 1880, c. 174, § 3) can receive no compensation, and the former can fix the compensation of their subordinates St. 1878, c. 114, § 6.

As to weekly payment of wages to employees of the city, see St. 1886, c. 68.

CHAPTER 7.

OF THE CITY SEAL AND OF CERTAIN POWERS OF THE MAYOR.

Section.

1. City seal.
2. Deeds, etc., from city, mayor to sign and seal.
3. Mortgages held by city, mayor may discharge or assign, etc.

Section.

4. Tax titles held by city, mayor may release.
5. Acknowledgments of compliance with conditions in deeds from city, mayor may give.

SECTION 1. The seal of the city shall bear a view of the city seal.
city and the inscriptions: "SICUT PATRIBUS SIT DEUS NOBIS. R. O. p. 24.
BOSTONIA CONDITA A.D. 1630. CIVITATIS REGIMINE DONATA
A.D. 1822."

SECT. 2. All conveyances and leases of city lands and Deeds, etc., from
all other instruments under seal, executed in behalf of the city, mayor to
city, shall, except as otherwise specially provided, be signed sign and seal.
and delivered in the name of the city by the mayor, who R. O. p. 24.
shall affix thereto the city seal.

SECT. 3. When a person entitled to redeem an estate Mortgages held
mortgaged to the city, makes application for such redemption, by city, mayor
the mayor may, with the approval of the corporation counsel, may discharge
and upon payment to the city collector of the amount due on or assign, etc.
the mortgage, discharge or release such mortgage, or assign R. O. p. 24.
the same without liability of or recourse to the city, and may
execute in behalf of the city any and all legal instruments
that may be necessary for said purposes.

SECT. 4. When a person entitled to redeem an estate Tax titles held
sold for non-payment of taxes or assessments, and purchased by city, mayor
by the city, makes application for such redemption, the mayor may release.
may, on the payment to the city collector of the amount due R. O. p. 24.
to the city on such estate, execute in behalf of the city any
and all legal instruments that may be necessary to vest in
such person the city's title to such estate.

SECT. 5. The mayor may, with the approval of the board Acknowledg-
of street commissioners, give to any party holding lands, the ments of com-
title of which is derived under a deed given by the city and pliance with
creating an estate upon condition, a deed of release acknowl- conditions in
edging that, up to the time when such deed of release is deeds from city,
given, such condition has been fully complied with, and re- mayor may give
leasing such land from the possibility of forfeiture to the R. O. p. 24.
city for any breach of condition happening prior to the date
of the release.

NOTES.

SECT. 1. There is no statute upon the subject of the city seal. The authority to establish a corporate seal is necessarily incident to the city as a municipal corporation. Dillon Mun. Corp. § 190.

SECT. 2. A seal does not, however, appear to be essential to the deed of a municipal corporation in this commonwealth. Inhabitants of Fourth School District in *Rumford v. Wood*, 13 Mass. 193, 199.

P. S., c. 205, § 26. St. 1881, c. 9, imposes a penalty for the unauthorized use of the seal of any city in the Commonwealth.

CHAPTER 8.

OF THE CITY CLERK.

Section.

1. Duties.
2. Subordinates.
3. Assistant city clerk, appointment.

Section.

4. powers and duties.
5. City clerk to keep records of fees.

SECTION 1. The city clerk shall have the care and custody of the city records and of all documents, maps, plans, and papers of the city, respecting the care and custody of which no other provision is made. He shall attend all meetings of the board of aldermen and all meetings of both branches of the city council, when met in convention, and he shall keep records of the proceedings at all such meetings.

Duties.
R. O. p. 25.

SECT. 2. The city clerk shall have allowed him as subordinates :—

Subordinates.

One assistant city clerk,
One chief mortgage clerk,
One index clerk,
Nine copyists,
Five clerks in the mortgage department,

all of whom, except the assistant city clerk, shall be appointed by the city clerk solely, and all may be removed by him, but they shall be subject to all the provisions of statutes or ordinances affecting subordinates in other departments.

SECT. 3. The city clerk shall annually, in January, appoint, subject to the approval of the mayor, the assistant city clerk, who shall be sworn to the faithful discharge of his duties, and shall hold office for the remainder of the municipal year, and until his successor is appointed and duly qualified.

Assistant city
clerk, appointment.
R. O. p. 25.

SECT. 4. The said assistant city clerk shall assist the city clerk in the performance of the duties of his office, and he shall discharge the duties of the city clerk when that officer is absent, and also when there is a vacancy in the office of city clerk. He may also act, in the absence of a city clerk, as clerk to the board of aldermen, at their request.

powers and
duties.
R. O. p. 25.

SECT. 5. The city clerk shall keep suitable records and accounts of all fees received by him, and shall personally verify all charges made therein.

City clerk to
keep records of
fees.

NOTES.

The city clerk is now elected by concurrent vote of the city council (St. 1885, c. 266, § 2) instead of in joint convention as formerly (§ 30 of city charter, St. 1854, c. 448). He is removable at the pleasure of the board of aldermen, the mayor thereto consenting. Section 30 of the city charter. As to the right to declare a ballot for city clerk void and proceed to another vote, see *Baker v. Cushman*, 127 Mass. 105.

For statute provisions relative to the duties of the city clerk, etc., see sections 30-32, 60, of the city charter.

Sections 3 and 4 of this chapter are specially authorized by P. S. c. 28, § 10.

CHAPTER 9.

OF THE CLERK OF COMMITTEES.

Section.

1. Election and duties.

Section.

2. Assistant clerk of committees, appointment and duties. Extra clerical assistance.

SECTION 1. There shall be elected annually, by concurrent vote of the two branches of the city council, a clerk of committees, who shall, when no other provision is made, act as the clerk of all committees, standing or special, of either branch or of both branches of the city council, and shall make proper records in books, kept for the purpose and furnished by the city, of all the proceedings and transactions of such committees; shall keep a calendar of all the meetings of such committees and notify the members of such meetings when requested so to do by the chairman or by a majority of the committee; and shall perform such other duties and services for the said committees as they may from time to time require.

SECT. 2. Said clerk may, subject to the approval of the city council, appoint an assistant, who shall perform such services, clerical or otherwise, as the said clerk or any of the committees aforesaid may direct, and who may be removed at any time by the said clerk or by the city council. The clerk of committees may also employ any other clerical assistance that may be needed, and for which an appropriation is made.

NOTES.

The office of clerk of committees is created by ordinance under the general power conferred by § 38 of the city charter. The city council can determine how the clerk of committees and his assistants shall be chosen and removed, as the manner of choosing them is excepted from the operation of St. 1885, c. 266, §§ 1 and 5, by § 2 of the same act. The clerk of committees is removable in the same manner in which he is appointed in the absence of special provision to the contrary. *Murphy v. Webster*, 131 Mass. 482, 488.

CHAPTER 10.

OF THE MAYOR'S OFFICE.

Section.

1. Mayor's subordinates.

Mayor's subor-
dinates.
R. O. p. 27.

SECTION 1. There shall be allowed to the mayor, in the discharge of the duties of his office, the following subordinates : —

One secretary,
One accountant,
One book-keeper,
One messenger.

NOTES.

The power of appointing and removing the subordinates in his office seems to be vested absolutely in the mayor, under St. 1885, c. 266, § 5.

CHAPTER 11.

OF THE CITY MESSENGER.

Section.

1. Election and duties.
2. Assistants, appointment.
3. To have general custody of City Hall, except, etc.
4. Rooms under control of mayor.

Section.

5. Rooms under control of aldermen.
6. Rooms under control of common council.
7. Powers of each branch relative to rooms under its control.

SECTION 1. There shall be elected annually, by concurrent vote of the two branches of the city council, a city messenger, who shall devote his whole time to the service of the city; shall attend all meetings of the board of aldermen and of the common council; shall wait upon all committees and boards when in session in City Hall; and in general shall perform all services required of him by the mayor, by either branch of the city council, or by any committee or board when in session as aforesaid.

Election and duties.
R. O. p. 28.

SECT. 2. He may, subject to the approval of the city council, appoint three assistants, who shall hold office for one year, unless sooner removed or suspended by him or by the city council.

Assistants, appointment of.
R. O. p. 28.

SECT. 3. The general custody of the city-hall building, except as otherwise provided, and except also as to any repairs or alterations therein, shall be in the charge of the city messenger, who may appoint all necessary subordinates, including the tender of the elevator, to enable him to discharge such duty. Such subordinates may be discharged or suspended by him, or by any standing committee of the city council having charge of the matter. The city messenger shall have the direction of any detail of police that may be specially assigned to protect said building or to preserve order in any part thereof. The superintendent of public buildings shall have charge of the steam apparatus for heating City Hall and the connected buildings, and of the elevator therein.

City messenger to have general custody of City Hall, except, etc.
R. O. pp. 104, 105.

SECT. 4. The use of the office and private room of the mayor shall be under the control of the mayor.

Rooms under control of mayor.
R. O. p. 105.

SECT. 5. The use of the large hall used for the meetings of the board of aldermen, the anteroom adjoining said hall on its easterly side, the city clerk's room, and the private office on the west side of said hall, and the chairman's room adjoining the city messenger's office, shall be under the control of the board of aldermen.

Rooms under control of aldermen.
R. O. p. 105.

SECT. 6. The use of the hall used for the meetings of the common council, the anteroom, committee-room, and wash-room adjacent to said hall on its easterly side, the lobby

Rooms under control of common council.
R. O. p. 105.

and clerk's room on its westerly side, and the president's room, adjoining the clerk's room, shall be under the control of the common council.

Powers of each
branch relative
to rooms under
its control.
R. O. p. 106.

SECT. 7. Each branch of the city government may prescribe rules for the use, custody, and care of its own apartments, and may direct the expenditure, through the superintendent of public buildings, of such sums of money as are from time to time appropriated for repairs or furnishing therein.

NOTES.

The office of city messenger is created by ordinance, under the general power conferred by § 38 of the charter.

The city council has the power to determine how the city messenger and his assistants shall be chosen and removed, as the manner of choosing and removing them is excepted from the operation of St. 1885, c. 266, §§ 1 and 5, by § 2 of the same act. They would be removable in the same manner that they are appointed, in the absence of provision to the contrary. *Murphy v. Webster*, 131 Mass. 482, 488.

CHAPTER 12.

OF THE CITY TREASURER.

Section.

1. Appointment and term of office.
2. Subordinates and their bonds.
3. City treasurer to have care and custody of city funds, etc.
4. payments by, how made; accounts, closing, and examination of; annual report.

Section.

5. City treasurer may make certain payments outside City Hall, etc.
6. Furniture, etc., for places where payments are so made.
7. Payments due to deceased employees.
8. Monthly statements.

SECTION 1. Annually, in the month of May or June, there shall be appointed by the mayor, subject to confirmation by the board of aldermen, a city treasurer, who shall hold office for one year from the first day of July in the year in which he was appointed.

Appointment
and term of
office.
R. O. p. 29.

SECT. 2. There shall be allowed to the treasurer, for the discharge of the duties of his department, the following subordinates:—

Subordinates,
and their bonds.
R. O. p. 29.

One cashier,
One book-keeper,
One teller,
Six paymasters,
One draft clerk and assistant paymaster,
One trustee and assignment clerk,
One bond and interest clerk,
One clerk and messenger.

He shall require from said subordinates, for the faithful performance of their respective duties and for the safe custody of the money and other property intrusted to them, bonds to himself as obligee, with sureties satisfactory to the mayor, and with penal sums as follows: the cashier, not less than twenty thousand dollars, and the tellers and paymasters, not less than ten thousand dollars each.

SECT. 3. The city treasurer shall have the care and custody of all the current funds of the city from the time when the same shall be paid over to him by the collector or any other person, and also of any securities which may be placed in his charge by virtue of any statute or ordinance. He may deposit any portion of such current funds with such national bank or banks established in Boston, and upon such conditions and rates of interest as he may deem best, subject, however, to the approval of the mayor; *provided, however*, that the whole amount of deposits in any one bank shall not exceed fifty per centum of its paid-in capital.

City treasurer
to have care and
custody of city
funds, etc.

payments by,
how made.

SECT. 4. The treasurer shall pay all checks, orders, and other warrants issued upon him by the city auditor for the payment of bills and demands against the city, which have been duly passed in the auditor's department and have been by the mayor ordered for payment. The form of such checks, orders, or other warrants shall be settled by the auditor, with the approval of the mayor, whose approval shall be necessary to any subsequent change therein.

accounts of,
closing and ex-
amination of ;
annual report.

The treasurer shall close his accounts for the financial year on or before the fourth day of May in each year, and shall on or before the first day of June transmit to the city council his annual report thereon. He shall also at any time submit his accounts and vouchers to the examination of any accountant designated for the purpose by the mayor, or by a vote of the city council, and he shall be entitled to a copy of the report thereon.

May make cer-
tain payments
outside City
Hall, etc.
R. O. p. 29.

SECT. 5. Payments of sums due to school instructors, school janitors, policemen, firemen, witnesses, and jurors, and to other persons employed in and about the various departments and institutions of the city and of the county of Suffolk, may be made by the city treasurer in any of the public buildings in the different sections of the city, or upon any of the public works, as he may designate and as will best facilitate such payments and prevent the loss of time by those to whom they are made; and for the purpose of making payments as aforesaid, the city treasurer may furnish necessary conveyance for his paymasters.

Furniture, etc.,
for places where
payments are so
made.
R. O. p. 29.

SECT. 6. Suitable furniture and fixtures for such places as may be designated by the city treasurer for making payments, under the preceding section, shall be furnished by the superintendent of public buildings, who shall also place proper safeguards for the keeping of any money that may be in charge of the paymasters in such places.

Payments due
to deceased em-
ployees.
Order city
council, March
16, 1885.

SECT. 7. Upon the death of any employee, the board, or officer in whose department the deceased person was employed, may certify to the city treasurer the amount due such employee at the time of his decease, and the name of the person entitled to receive the same; and the city treasurer is hereby authorized to pay said amount in conformity to the certification of said board or head of department.

Monthly state-
ments.

SECT. 8. On or before the tenth day of each month the city treasurer shall render to the mayor and city council a statement of the receipts and payments of his department for the preceding month, and a summary of the like items for the current financial year up to the close of such month.

NOTES.

As to the duties of the city treasurer, see St. 1875, c. 176, § 1. St. 1885, c. 266, § 1, provides for his appointment by the mayor, subject

to confirmation by the board of aldermen, and makes him removable by the mayor upon assignment of cause. The manner of appointing and removing his subordinates is determined by St. 1885, c. 266, § 5. See city charter, § 42, and notes to chapter 4.

The city treasurer is also treasurer of the county of Suffolk. P. S. c. 23, § 3. See § 42 of city charter.

CHAPTER 13.

OF THE CITY COLLECTOR.

Section.

1. Appointment and term of office.
2. Subordinates, and their bonds, etc.
3. City collector's general duties.
4. duties upon receiving tax-bills.

Section.

5. City collector to keep alphabetical lists of tax-sales, etc.
6. to sell unredeemed estates taken or purchased at tax-sales, etc.

Appointment
and term of
office.

R. O. p. 30.

SECTION 1. Annually, in the month of May or June, there shall be appointed by the mayor, subject to confirmation by the board of aldermen, a city collector who shall hold office for one year from the first day of July in the year in which he is appointed.

Subordinates
and their bonds,
etc.

SECT. 2. There shall be allowed to the collector, for the discharge of the duties of his department, the following subordinates : —

One cashier,
One book-keeper,
One chief clerk,
Three clerks,
One general clerk and messenger,
Eighteen deputy collectors.

deputies to
give whole
time.

R. O. p. 30.

City collector's
general duties.
R. O. p. 30.

He shall require from said subordinates for the faithful performance of their respective duties and for the safe custody of the money and other property intrusted to them, bonds to himself as obligee, with sureties satisfactory to the mayor, and with penal sums as follows: the cashier, not less than twenty thousand dollars, and the deputy collectors, not less than five thousand dollars each. The whole time of the deputy collectors shall be given to the duties of the said department.

SECT. 3. The city collector shall collect and receive all moneys payable to the city, except when other provision is made, and shall make to the city auditor monthly reports in writing of the amount of all moneys received by him, and of the accounts upon which such moneys have been received. He shall also, at the close of each financial year, submit to the city council a statement of all moneys received by him during the year, of the particular warrant, assessment, or account upon which each amount was received, and of the balance of money uncollected on the respective warrants, assessments, or schedules of departments in his hands, and a copy of such statement shall be filed with the city auditor. He shall also be

the custodian of all leases of city property, and of all notes, bonds, mortgages, and other evidences of indebtedness belonging to the city or to the county, and shall annually, in May, lay before the city council a detailed statement thereof.

SECT. 4. The city collector shall, immediately after receiving any tax-bills from the board of assessors, cause such bills to be delivered to the persons assessed, and if they are not paid within thirty days thereafter, he shall issue a summons to each person who fails to pay; and if such person does not pay his taxes within ten days after the receipt or such summons, or after the service thereof upon him in the usual manner, the said collector shall issue his warrant for the collection of said taxes, or in the case of taxes on real estate shall proceed to sell according to the law.

Duties upon receiving tax-bills.
R. O. pp. 30, 31.

SECT. 5. As soon as conveniently may be after the city collector has caused any real estate to be sold for non-payment of a tax or assessment, he shall cause such sale to be entered in an alphabetical list, made under his supervision and kept in his office for public reference, and giving the location of such real estate and the name of the person or persons, if known, against whom such tax or assessment was laid.

To keep alphabetical lists of tax-sales.
R. O. p. 31.

SECT. 6. The city collector shall cause to be sold, pursuant to section fifty-eight of chapter twelve of the Public Statutes, and all other provisions of law applying thereto, all real estate taken or purchased by the city for non-payment of taxes or assessments and not redeemed within the time allowed for such redemption, and the mayor shall, upon payment of the purchase-money to the said collector, execute to the purchaser of any such estate a quitclaim deed thereof.

To sell unredeemed estates taken or purchased at tax-sales, etc.
R. O. p. 31.

NOTES.

As to the duties of the city collector, see St. 1875, c. 176, §§ 2, 3. By St. 1885, c. 266, § 1, he is to be appointed by the mayor, subject to confirmation by the board of aldermen, and is removable by the mayor upon assignment of cause. The appointment and removal of his subordinates is governed by St. 1885, c. 266, § 5.

SECT. 3. As to what constitutes a valid payment of a tax under protest, see *Carleton v. Ashburnham*, 102 Mass. 348, 350; *Knowles v. Boston*, 129 Mass. 551; *Borland v. Boston*, 132 Mass. 89.

SECT. 5. This ordinance appears to be made under the provisions of P. S. c. 12, §§ 43, 58.

See also notes to chapter 4.

By St. 1875, c. 176, § 2, the city collector is also collector for the county of Suffolk.

The collector and his deputies are public officers, and not agents of the city for whose acts the city is liable in tort. *Dunbar v. Boston*, 112 Mass. 75; *Alger v. Easton*, 119 Mass. 77.

CHAPTER 14.

OF THE CITY AUDITOR.

Section.

1. Appointment, term, and qualification.
2. Subordinates.
3. City auditor's general duties.
4. Proceedings before money is paid out of city treasury; times when payments shall be made; excessive expenditures to be reported to mayor.

Section.

5. Pay-rolls of laborers.
6. Estimates of annual expenditures; annual report; monthly statements.

Appointment,
term, and qual-
ification.
R. O. p. 32.

SECTION 1. Annually, in the month of May or June, there shall be appointed by the mayor, subject to confirmation by the board of aldermen, a city auditor, who shall hold office for one year, from the first day of July in the year in which he is appointed; and he shall be sworn to the faithful discharge of the duties of his office.

Subordinates.

SECT. 2. There shall be allowed to the auditor, for the discharge of the duties of his department, the following subordinates: —

One chief clerk and general book-keeper,
One draft clerk and book-keeper of receipts,
Two abstract clerks,
One bond and interest clerk,
Five clerks,
One messenger.

City auditor's
general duties.
R. O. p. 32.

SECT. 3. The city auditor shall keep a complete set of books, wherein shall be stated the amount of the appropriation that has been made for each distinct object of expenditure, and the amount that has been expended on account of such appropriation; and when the appropriation for any specific object has been wholly expended, he shall immediately communicate that fact to the city council.

Proceedings be-
fore money is
paid out of city
treasury.
R. O. p. 35.

SECT. 4. Before money is paid out of the city treasury, a requisition therefor in writing, with detailed accounts attached, specifying the amount to be paid and the party or parties to whom the payment is due, shall be made by the board, officer, department, or committee incurring the expenditure, upon the city auditor. He shall examine all such requisitions, bills or demands rendered against the city; shall see that they have been incurred with due warrant of law, and properly approved by some person duly authorized, and in exact accordance with such authority; that the clerical computations are correct; and that there are on

hand funds appropriated for the purpose sufficient for the payment of such demand or bill. In case of any error or informality he shall make note of the fact, and of his objections, and return the bill or demand with such objections, to the board, officer, or committee presenting the same. If he approve of the bill or demand he shall cause the same to be marked with his certificate of approval, and shall cause an abstract of the same to be entered on a book kept for the purpose. As soon as possible after the twentieth day of each month he shall close the outstanding accounts on such book, and present the same to the mayor, who, if satisfied of their correctness, shall sign thereon a warrant for the city treasurer to pay such amount in detail. On receiving a proper receipt or acquittance of such bill or demand, the auditor shall issue to the person entitled to payment, a check, order, or other warrant directed to the city treasurer for the amount due.

Such warrants for payments as aforesaid shall be issued on the first secular day of each month, for all bills or demands which have been approved and ordered paid, prior to such date. Payments shall also be made at such reasonable times as the city council, with the approval of the mayor, may direct. Accounts may be adjusted, and special warrants for payment issued after the verification by the auditor, at such time as he may appoint, at the written request of any board or officer in charge of a department, provided that it be sanctioned by the mayor in writing. Discharged employees may be paid at any time on presenting to the auditor a proper certificate from the head of the department in which they were employed.

Times when payments shall be made.

The auditor shall report to the mayor whenever the expenditures of any department seem to be in excess of a proper monthly ratio of its appropriation.

Order city council, Jan. 11, 1884.

Excessive expenditures to be reported to mayor.

SECT. 5. The pay-rolls of laborers employed in the several departments shall be made up semi-monthly; one from the fifteenth to the last day of each month, inclusive, and the other to be made up from the first to the fourteenth day, inclusive; said pay-rolls shall be forwarded to the city auditor with special drafts on the city treasurer to meet the same.

Pay-rolls of laborers. Order city council, Sept. 19, 1882.

SECT. 6. The city auditor shall annually, in February, lay before the city council an estimate of the amount of money which it will be necessary to raise to meet the expenditures for the ensuing year, giving under each of the respective heads of appropriation a detailed statement (to be furnished by the several boards and officers, as provided in section two of chapter fifteen of these ordinances), of the purposes for which the appropriation is needed. He shall also annually, on or before the first day of July, submit to the city council a printed statement of all the receipts

Estimate of annual expenditures.

Annual report.

and expenditures of the past financial year, giving in detail the amount of the appropriation and of the expenditure for each specific object, the receipts from each source of income, the reduction, if any, of the city debt, and the changes, if any, in the sinking-funds. Said statement shall be arranged, as far as practicable, so as to conform to the accounts of the city treasurer and city collector, and shall be accompanied by a schedule of the property belonging to the city, and by an exhibit showing the debts due from the city, the rates of interest thereon, and the years in which such debts will become due. He shall also make to the city council a monthly statement of the amounts of the several appropriations; of the amount of all drafts on account of each appropriation made during the month preceding the date of such statement; of the amount of such drafts made since the beginning of the financial year; and of the balance of each appropriation remaining subject to draft.

monthly statements.
B. O. p. 82.

NOTES.

The city auditor, although created by ordinance under the general authority of § 38 of the city charter, is by statute made *ex-officio* auditor of accounts of Suffolk county (P. S. c. 23, § 34); and a duplicate receipt for all moneys paid over by the collector to the treasurer is required by statute to be filed with the auditor. St. 1875, c. 176, § 20; see § 42 of city charter. The manner of his appointment and removal, and of the appointment and removal of his subordinates, is determined by St. 1885, c. 266, §§ 1, 5. His salary as county auditor is fixed by the board of aldermen. See revised standing regulations of the board of aldermen, c. 2, § 3, *post*, p. 186.

SECT. 6. The annual report of receipts and expenditures is required by § 51 of the city charter to be published and distributed for the information of the citizens.

CHAPTER 15.

OF MATTERS OF FINANCE.

Section.

1. Financial year defined.
2. Estimates of necessary appropriations to be sent to city auditor.
3. Excessive expenditures forbidden.
4. Insufficient appropriations to be reported to city council, etc.
5. Certificates of indebtedness — signing, registration, and rate of interest; loans, negotiation of.
6. Bonds and coupons, payment of.
7. Bills and demands due to city to be delivered to city collector monthly; also statement of same to city auditor.

Section.

8. Debts to city overdue, to be put in suit.
9. Excesses of revenue from liquor licenses, of income, taxes, and appropriations, disposal of.
10. Certain other receipts to go to reduction of city debt.
11. Excess of income from water-rates to go to reduction of water debt.
12. Executions and judgments, payment of.
13. Certain claims, how settled.

SECTION 1. The financial year of the city shall begin on the first day of May and end on the last day of April, and the city treasurer and city collector shall make up their annual accounts to the last-named date. Financial year defined.
R. O. p. 34.

SECT. 2. Every board or officer in charge of a department shall annually, before the fifteenth day of February, send to the mayor and the city auditor an estimate in detail of the appropriations which will be needed to meet the expenditures to be incurred by such board or officer, during the next financial year, and also an estimate of all income to be received from any source by such board or officer during said year. Estimates of necessary appropriations to be sent to city auditor.
R. O. p. 34.

SECT. 3. No expenditure shall be made or liability incurred on behalf of the city, until a loan has been duly authorized or an appropriation has been made by the city council, sufficient to meet such expenditure or liability, together with all prior unpaid liabilities which are properly chargeable to the same appropriation. Excessive expenditures forbidden.
R. O. p. 34.

SECT. 4. When the estimates for the performance of a work for which a board or officer is authorized by the city council, or by either branch thereof, to contract, exceed in amount the appropriation made for such work; or when the sum appropriated for any purpose has been expended before such purpose has been fully accomplished, the board or officer in charge of the department shall report to the city council, or to the branch thereof from which their authority is derived, a detailed statement of the causes of the insufficiency of the appropriation to meet the purposes for which it was made, and an estimate of the additional appropriation which they judge will be required fully to effect such purposes; and they shall not conclude any contract nor incur further Insufficient appropriations to be reported to city council, etc.
R. O. pp. 34, 35.

expense in the premises, until they are authorized so to do by the city council or by the branch thereof from which their authority is derived.

Certificates of indebtedness; signing, registration, and rate of interest.
R. O. p. 35.

SECT. 5. When the city treasurer is authorized by the city council to borrow money and to give certificates of indebtedness therefor, such certificates shall be signed by the mayor, the city treasurer, and the city auditor, and shall be registered both in the office of the city treasurer and in that of the city auditor. The rate of interest to be paid on any loan, unless prescribed by the vote of the city council authorizing the same, shall be fixed by the mayor, the treasurer, and the auditor.

Loans, negotiation of.

Whenever any loan is so authorized, unless the commissioners of the sinking-funds or the trustees of any of the public funds of the city shall desire to purchase the bonds, it shall be the duty of the treasurer to solicit, by advertisement in the daily papers and in such other manner as the mayor shall approve, sealed proposals to purchase said bonds, reserving the city's right to reject all bids. All such bids shall be publicly opened, at a time and place to be stated in the said advertisements and other notices, by the treasurer, in the presence of the mayor and the auditor, and the highest bid made by a responsible party for the entire loan shall be accepted unless all are rejected. If no bids are made for the entire loan the loan or any part thereof shall be awarded to the several parties making the highest bids therefor unless all are rejected. The treasurer shall preserve all rejected bids and other papers relative thereto.

Bonds and coupons, payment of.

SECT. 6. Whenever any bond or coupon issued by the city has become due the treasurer shall pay the same on presentation and shall cancel the same. He shall transmit the bonds so paid daily, and the coupons so paid twice in each month, to the auditor, who shall have the custody of the same thereafter.

Bills and demands due the city to be delivered to city collector monthly.

SECT. 7. Each board, department, and officer of the city government shall, within the first ten days of every month, deliver to the city collector bills of all dues which in the course of the preceding month have become payable to the city, through or on account of such board, department, or officer; and they shall, as often as such moneys amount to one hundred dollars, and also on the last day of each month, pay over all moneys received and all fees collected by them for or on account of the city, and shall, at the time of such payment, render a statement explanatory thereof. In case no return is received from any officer who has usually made one, the collector shall notify the mayor of the omission. When bills or moneys are delivered or paid to the city collector, as before provided, a statement of the aggregate amount of such bills or moneys shall at the same time be rendered to the city auditor.

also statement of same to city auditor.
R. O. p. 35.

SECT. 8. When a debt due to the city is not paid within sixty days after demand is made for such payment the city collector shall, if no other provision for its collection is made, place the claim in the hands of the city solicitor, who shall forthwith put the same in suit; and the mayor may in any case, when in his judgment the interests of the city require it, direct a suit to be brought upon a claim before the expiration of said sixty days.

Debts to city
overdue, to be
put in suit.
R. O. p. 36.

SECT. 9. All excess of revenue derived from liquor licenses, excess of income and taxes over estimated income and taxes, and excess of appropriations over expenditures at the close of each financial year, shall remain in the city treasury, to be used and applied for such purposes as the city council may order.

Excesses of
revenue from
liquor licenses,
of income,
taxes, and ap-
propriations,
disposal of.
R. O. p. 36.

SECT. 10. All moneys received by the city from the sale of real estate, from payments on account of the principal sum secured by any bond or note, or from payments on account of any betterment assessment, shall, unless otherwise specially directed by the city council, be paid by the city treasurer to the commissioners of the sinking-funds, and applied by them to the reduction of the city debt.

Certain other
receipts to be
applied to reduc-
tion of city debt.
R. O. p. 37.
Ord. 1883, c. 12.

SECT. 11. All excess of income from water-rates over the amount required to pay the expense of carrying on the water-works and to pay the interest and exchange, if any, on the water debts, shall be paid to the commissioners of the sinking-funds, and by them added to the sinking-funds for said debts.

Excess of in-
come from
water-rates to
be applied to
reduction of
water debt.
R. O. p. 37.

SECT. 12. The city treasurer is authorized to pay all executions or judgments of court against the city when duly certified as correct by the city solicitor, and special drafts to cover the same shall be made by the mayor, duly certified by the city auditor; and if the appropriation for the special object to which the amount of the execution is chargeable is not sufficient, the execution shall, nevertheless, be paid by the city treasurer, who shall immediately give notice of the fact of the over-draft upon the execution to the department incurring the obligation.

Executions and
judgments, pay-
ment of.

¹ SECT. 13. The mayor may settle any claim against the city, arising from the act or neglect of any of its departments.

Certain claims,
how settled.

¹ On Jan. 27, 1886, section 13 was repealed, and on Feb. 10, 1886, the following ordinance was passed in its place, to wit:—

SECT. 13. All claims against the city, arising from the act or neglect of any department, shall be settled by such department, provided the settlement is recommended by a vote of the committee on claims, approved by the mayor, and can be effected for the sum of five hundred dollars or less.

The city solicitor shall take such steps and incur such expense as he deems expedient for the prosecution and defence of suits, and may, when recommended by a vote of the committee on claims, approved by the mayor, settle any suit against the city. Every amount paid in settlement of a claim or suit, and every judgment or execution paid by the city treasurer, shall be charged against the appropriation of the department whose act or neglect caused the claim, and shall be reckoned as an expenditure made by such department in all its accounts, balances, and reports. The expense of prosecuting and defending suits shall be paid from the appropriation for incidental expenses.

Nothing herein contained shall be construed as preventing any person from petitioning the city council for a settlement of his claim.

provided the settlement is recommended in writing by the corporation counsel, and has been approved by the vote of a majority of all the members of a joint committee of said council after an examination of the claim. Every amount thus allowed, and every judgment or execution paid by the city treasurer, shall be charged against the appropriation of the department whose act or neglect caused the claim, and shall be reckoned as an expenditure made by such department in all its accounts, balances, and reports.

NOTES.

The purposes for which cities can appropriate money, to be raised by taxation, are set forth in P. S. c. 27, §§ 10-13, and P. S. c. 28, § 13, and St. 1885, c. 189. The language of P. S. c. 28, § 13, "the celebration of holidays and *other public purposes*," has been held to authorize an appropriation for public concerts by a band. *Hubbard v. Taunton*, 140 Mass. 467.

As to the necessity of specifying in a vote appropriating money the purposes for which the money appropriated is to be used, see *Freeland v. Hastings*, 10 Allen 570, 576; — *Woodbury v. Hamilton*, 6 Pick. 101, 102.

As to the effect of a vote appropriating money in creating a contract on which the city can be held liable, see *Paine v. Boston*, 124 Mass. 486; *Hall v. Holden*, 116 Mass. 172; *Parks v. Waltham*, 120 Mass. 160.

SECT. 2. By St. 1885, c. 266, § 7, the mayor is required to examine the annual estimates of the departments, and submit the same with his recommendations thereon to the city council. No time is specified within which these recommendations are to be submitted, but they would naturally be sent in with the auditor's estimates, which are required by c. 14, § 6 (*ante*, p. 39), to be laid before the city council in February.

By St. 1885, c. 178, § 1, any order or appropriation is void which requires a larger assessment of taxes on property, in any one year, exclusive of the State tax and of the sums required by law to be raised on account of the city debt, than nine dollars on every one thousand dollars of the average of the assessors' valuations for the preceding five years, the valuation for each year being first reduced by the amount of all abatements allowed thereon previous to the last day of the year preceding said assessment.

SECT. 4. As to the effect of a similar by-law, see *Marsh v. Dedham*, 137 Mass. 235.

CHAPTER 16.

OF THE COMMISSIONERS OF SINKING-FUNDS.

Section.

1. Appointment and term of office.
2. Powers and duties; treasurer to keep accounts, and make annual report.
3. Sinking-funds; appropriations for, how made, paid over, invested, etc.

Section.

4. Funds required to be reported, and included in annual appropriation bill.
5. Application of funds when debt falls due.
6. Treasurer and secretary.

SECTION 1. There shall be under the provisions of Public Statutes, chapter twenty-nine, a board of commissioners of sinking-funds, to consist of six persons to be appointed by the mayor in the month of February, subject to confirmation by the board of aldermen, one-third to be so appointed for one, two and three years, respectively, from the first day of May in the year eighteen hundred and eighty-six; and annually in the month of February thereafter there shall be so appointed for a term of three years from the first day of May next ensuing, a number equal to the number whose term of service expires on such first day of May. Any vacancy occurring in the board shall be filled, for the remainder of the unexpired term, in the same manner as the original appointment.

SECT. 2. The said board shall have the control of all sinking-funds established by the city, and shall report to the city council annually, on or before the fourth Monday of May, the exact condition on the first day of said month of the several funds under their control. The treasurer of said board shall keep the accounts of the several funds in such form and manner as the said board may direct, and he shall furnish to the city auditor annually, on or before the first day of June, a statement of the condition of the several funds on the last day of the preceding April, which statement shall be printed in the annual report of the said auditor.

SECT. 3. Appropriations on account of the sinking-funds shall be made annually as follows: for debts payable in ten years from the time when they were incurred, an appropriation equal to eight per cent. of the amount thereof; for debts payable in twenty years from said time, an appropriation equal to three and one-half per cent. of the amount thereof; and for debts payable in thirty years from said time, an appropriation equal to two per cent. of the amount thereof. The amount of all said appropriations shall be raised annually by taxation, and shall be paid by the city treasurer to the said board on or before the first day of December in each year and

Appointment
and term of
office.
R. O. p. 36.

Powers and
duties.

Treasurer to
keep accounts
and make an-
nual report.
R. O. p. 36.

Sinking-funds—
appropriations
for, how made,
paid over, in-
vested, etc.
R. O. pp. 36, 37.

the said board shall invest the amounts so received, with their accumulations, in such manner as is authorized by law ; but the said board may, at any time when they deem that the appropriation above specified is more than will be required in order to provide for the payment of a debt at its maturity, make such reductions in the amount of the appropriation as may be consistent with the requirements of the statutes of the commonwealth.

Funds required
to be reported
and included in
annual appro-
priation bill.
R. O. p. 37.

SECT. 4. The said board shall annually, on or before the tenth day of February, report to the city council and to the city auditor a detailed statement of the amounts required by statute and by the preceding section to be raised by taxation on account of the sinking-funds during the next financial year, and such amounts shall be included in the general appropriation bill for that year.

Application of
funds when
debt falls due.
R. O. p. 37.

SECT. 5. When a debt of the city becomes due the said board shall pay over and transfer to the city treasurer all funds which they may hold as a sinking-fund for said debt, or so much of such funds as may be required for the payment of such debt ; and the balance of such funds, if any, shall be transferred by them to such other sinking-fund as they may deem advisable.

Treasurer and
secretary.
R. O. p. 36.

SECT. 6. The city treasurer and the city auditor may serve as treasurer and secretary respectively of said board ; and, if so chosen, shall receive a reasonable compensation for such service.

NOTES.

The statute provisions limiting municipal indebtedness and requiring the establishment of " sinking-funds " are to be found in St. 1875, c. 209 ; P. S. c. 29, St. 1882, c. 133 ; St. 1885, c. 178, § 2 ; St. 1885, c. 312, § 4. See also *Agawam Nat. Bank v. South Hadley*, 128 Mass. 503.

P. S. c. 29, § 10, determines the number of commissioners of sinking-funds and their term of office, and § 11 prescribes their duties ; St. 1885, c. 266, § 1, determines the manner of their appointment and removal. They can receive no compensation for their services. P. S. c. 29, § 11.

SECT. 6. The treasurer and secretary of the board are entitled to compensation, and it shall be fixed by the city council. P. S. c. 29, § 11.

CHAPTER 17.

OF CONTRACTS MADE IN BEHALF OF THE CITY.

Section.

1. Purchases regulated.
2. Contracts estimated to exceed \$1,000 to be advertised; exceeding \$1,000 to be approved by the mayor; appropriations not to be exceeded.
3. Plans, specifications, and schedules to be made and shown.
4. Bonds for execution of contracts; proposals not to be received from certain parties; contracts to be in triplicate.
5. Proposals, receiving and opening of; awarding of contract; bids to be open to inspection.

Section.

6. Contracts exceeding \$1,000 to be in writing; alterations; extra work.
7. in case of alterations, portion not affected to be in force; final payments.
8. not to extend beyond one year, unless, etc.
9. involving employment of laborers, etc., to contain certain provisions.
10. Prevention of assignment of wages.

SECTION 1. All boards and officers in charge of a department, except the city treasurer, shall be governed in their purchases by the provisions of this chapter. Purchases regulated.

SECT. 2. In case the amount of the estimated expenditure under a contract exceeds one thousand dollars, reasonable notice shall be given by advertisements therefor, published in one or more daily papers of the city not exceeding four, and elsewhere if necessary, and a copy of such advertisement shall be sent to the mayor's office for preservation. Every contract in which the amount involved exceeds one thousand dollars shall require the written approval of the mayor before going into effect; and no expenditure shall be made, nor liability incurred, for any purpose, beyond the appropriation duly made therefor. Contracts estimated to exceed \$1,000 to be advertised.

exceeding \$1,000 to be approved by mayor.

appropriations not to be exceeded.

SECT. 3. Whenever advertisements for proposals for any work to be done for the city, or for any materials or supplies to be furnished, are made, the board or officer in charge of the work to be done shall cause suitable plans and specifications, and schedules of materials or supplies, to be prepared and shown to parties proposing to bid. Plans, specifications and schedules to be made and shown.

SECT. 4. Every contract exceeding one thousand dollars shall be accompanied by a suitable bond for the performance of the same, or by the deposit of money or security to the amount of such bond. No proposal shall be accepted from or for any person who shall have broken a contract with the city during the three years preceding. All written contracts shall be executed in triplicate, and one of said copies shall be deposited with the city auditor. Bonds for execution of contracts.

Proposals not to be received from certain parties.

Contracts to be in triplicate.

SECT. 5. No proposal shall be received from any person offering to contract for such work, unless the same is sealed. Such proposals shall be at once placed in a sealed box in the Proposals, receiving and opening of.

Awarding of contract.

department calling for the proposals, and the mayor shall hold the only key to such box. All proposals shall be publicly opened, read and recorded at the hour and place in City Hall designated in the advertisement, in the presence of the mayor or such person as he may designate. The contract shall be awarded to the lowest bidder complying with the terms; *provided, however*, if any such proposals shall be offered by persons who, in the judgment of the officer or board issuing the advertisement and of the mayor, shall be incompetent to perform their contracts in a workman-like manner, or irresponsible in respect to their means of faithfully executing the same, such proposal may be rejected, notwithstanding the same be at a lower rate than other proposals offered for the same work, and the next higher bidder shall be substituted. And *provided, also*, in all cases, that the officer or board may reject all bids, with the consent of the mayor, and issue new advertisements. All bids shall be preserved by the officer or board issuing the advertisement on the records of his department, and shall be open to public inspection after the contract has been awarded and accepted by the bidder.

bids to be open to inspection.

Contracts exceeding \$1,000 to be in writing.

alterations.

extra work.

in case of alteration portion not affected to be in force.

final payments.

not to extend beyond one year, unless, etc.

involving employment of laborers, etc., to contain certain provisions.
R. O. p. 88.

SECT. 6. In all cases where the amount of any contract shall exceed the sum of one thousand dollars the contract shall be in writing; and after being signed by the parties, no such contract shall be altered in any particular, without the consent of the contractor, the officer or board making the contract, and of the mayor, indorsed thereon. And all payments for extra work shall be made at the time of the final payment on such contract.

SECT. 7. Every contract shall provide that, in case of any alteration, so much of such contract as is not necessarily affected by the change shall remain in force upon all parties thereto. It shall also provide that no payment for work done under such alterations shall be made until the completion of the whole contract, and also that the adjustment and payment of the bill then rendered for such work shall release and discharge the city from any and all claims or liability on account of any work performed under such contract or any alteration thereof.

SECT. 8. No officer or board shall make any contract in behalf of the city the execution of which shall necessarily extend beyond one year from the date thereof, unless special permission so to do has been given by vote of the city council or of the branch having authority therein, or by the statutes of the commonwealth.

SECT. 9. In every contract entered into on behalf of the city, and involving the employment of mechanics or laborers by the contractor, a provision shall be inserted to the effect that the board, or other authority making such contract, may, if it deems it expedient to do so, retain out of any amounts

due to such contractor sums sufficient to cover any unpaid claims of mechanics or laborers for work or labor performed under such contract, provided that notice in writing of such claims, signed by the claimants, has been previously filed in the office of the city clerk.

SECT. 10. Officers at the head of departments of the city government shall use such measures as they may deem expedient to prevent the assignment of wages by persons employed in such departments.

Prevention of assignments of wages.
R. O. p. 33.

NOTES.

St. 1885, c. 266, §§ 6, 12, vests the power to make contracts in the several executive officers and boards without participation therein by the city council, but does not interfere with the latter's power to regulate by ordinance the manner of awarding, executing, altering and preserving records of the same. The statute (§ 6) requires the mayor's written approval for all contracts involving more than two thousand dollars, but does not interfere with or restrict the power of the city council by ordinance to require the mayor's approval for those involving a less sum. The provisions of this chapter are, in the main, based upon those of the joint rules of the city council which formerly governed the committees in awarding contracts.

SECTION 1. Special provision is made in c. 15, § 5, for the only contracts that are made in the treasurer's department, the awarding of public loans.

CHAPTER 18.

OF THE CITY ENGINEER.

Section.

1. Appointment and term of office.
2. General duties.
3. To be engineer of Boston Water Board.
4. To examine bridges annually, etc.

Section.

5. Repairs on bridges, estimates of superintendent to be approved by.
6. Subordinates.
7. Annual reports.

Appointment
and term of
office.

R. O. p. 39.

General duties.

R. O. p. 39.

SECTION 1. There shall be annually appointed by the mayor, subject to confirmation by the board of aldermen, a city engineer, who shall be a citizen of Boston.

SECT. 2. Said engineer shall perform all such services for the city as properly come under the direction of a civil engineer, and shall be consulted on all important matters relating to public improvements of every kind, where the advice of an engineer would be of service. He shall take charge of the construction of all such public works of the city as the city council may direct, and shall prepare, or cause to be prepared, all plans, specifications, and contracts therefor. He shall also, when required by any officer or board in charge of a department, or by the mayor, the city council, or either branch thereof, measure or cause to be measured all work done by contract for the city, and shall certify the results of such measurements, and he shall be the custodian of all city plans belonging to his department.

To be engineer

of the Boston
water board.

R. O. p. 39.

SECT. 3. He shall be the engineer of the Boston water board, and shall, under the direction of said board, have the general superintendence of all works in the water-department; shall take such charge as the said board may direct of the sources for the supply of water, and of the several reservoirs and other structures and property connected with the water-works; and shall perform all other services in relation to said works that may be required of him by the said board or by the city council. He shall also cause accurate observations of the height of the water at the several sources, at the pipe-chambers, and at the several reservoirs, to be made daily, or oftener, at his discretion.

To examine
bridges an-
nually, etc.

R. O. p. 39.

SECT. 4. He shall annually, or oftener if he deem it judicious, make a careful examination of all bridges within the city limits, and shall make such reports respecting their condition, as to safety or need of renewal or repairs, as the exigency of the case may require, to the mayor and to the board, officer, corporation, or person whose duty it is to attend to the matter.

SECT. 5. When repairs are needed on any bridge in charge of the superintendent of bridges, the latter shall make an estimate of the amount and expense thereof, and submit it to the city engineer for approval; *provided, however,* that if such repairs affect the structure of the bridge, the whole work shall be solely in charge of the city engineer, and he may also order the superintendent to make necessary repairs, when it seems advisable, to an amount not exceeding the appropriation remaining unexpended.

Repairs on bridges, estimates of superintendent to be approved by.

SECT. 6. There shall be allowed to the city engineer, for the discharge of the duties of his department, the following subordinates:—

Subordinates.
R. O. p. 40.

One assistant city engineer,
Three assistant engineers,
One chief clerk,
One book-keeper,
Three draughtsmen,
Eleven transit-men, levellers, rodmen, and axemen.

SECT. 7. He shall annually, in January, present to the city council a report in relation to his department, showing the number of persons employed therein, the detailed expenses of the department, the general nature of the work performed, the condition of all structures that come under his supervision, including those in process of construction and those which have been completed during the previous year, and such other general information in relation to the matters connected with his department as he may deem expedient; and he shall annually, on or before the fifth day of May, present to the Boston water board a report of the general condition of the water-works, with a detailed statement of all expenditures in his department relating to said works, and with such other matters as he or the said board may deem expedient.

Annual report to city council.

Annual report to Boston water board.
R. O. p. 40.

NOTES.

The office of city engineer is created by ordinance under the general power conferred by § 38 of the charter. The manner of his appointment and removal, and of the appointment and removal of his subordinates, is determined by St. 1885, c. 266, §§ 1, 5.

SECTIONS 1, 2. This ordinance does not confer upon the city engineer the power to erect a dam on a person's land, without his consent, for the purpose of abating a nuisance upon neighboring flats by flowing them, and the city is not liable for his acts in so doing. *Cavanagh v. Boston*, 139 Mass. 426, 434.

CHAPTER 19.

OF THE CITY SURVEYOR.

Section.

1. Appointment and general duties.
2. Further duties.

Section.

3. Subordinates.
4. Annual report.

Appointment
and general
duties.

R. O. p. 41.

SECTION 1. There shall be annually appointed by the mayor, subject to confirmation by the board of aldermen, a city surveyor, who shall be a citizen of Boston, and who shall, by himself or his assistants, make such surveys, plans, estimates, and descriptions, and takes such levels, as may be required of him by the mayor, the board of aldermen, the common council, any committee of the city council or of either branch thereof, or any board or officer in charge of a department, and he shall, whenever required, furnish the corporation counsel and city solicitor with all necessary descriptions of lands.

Further duties.

R. O. p. 41.

SECT. 2. The city surveyor shall furnish to the board of street commissioners, and to any committee having charge of any project for laying out or widening a street, such plans and such information in relation to projects under consideration by them as they may require; and he shall have the custody of all surveys and plans relating to the laying out, widening, extending, and grading of streets, and shall prepare all such statements and estimates relating to street widenings, extensions, and alterations, as the said commissioners or such committee may require.

Subordinates.

R. O. p. 41.

SECT. 3. There shall be allowed to the city surveyor, for the discharge of the duties of his department, the following subordinates:—

Seven surveyors,
Seven assistant surveyors and levellers,
One clerk and draughtsman,
Three draughtsmen,
Twelve rodmen.

Annual r. port.

R. O. p. 41.

SECT. 4. The said surveyor shall annually, in January, submit to the city council a report in relation to his department, showing the number of persons employed, the detailed expenses of the department, the general nature of the work done, and such other general information in relation to the same as he may deem expedient.

NOTES.

The office of city surveyor is created by ordinance under the general power conferred by § 38 of the charter. There is no statutory mention of it, except the provision of St. 1870, c. 337, § 7, that the city surveyor shall furnish all surveys and plans referred by the board of street commissioners, and perform such other duties for said commissioners as they may require. The manner of his appointment and removal, and the appointment and removal of his subordinates, is determined by St. 1885, c. 266, §§ 1, 5.

CHAPTER 20.

OF THE CITY REGISTRAR.

Section.

1. Appointment and duties.
2. Subordinates.

Section.

3. Annual report.
4. Undertakers' fees.

Appointment
and duties.
R. O. p. 42.

SECTION 1. There shall be annually appointed by the mayor, subject to confirmation by the board of aldermen, a city registrar, who shall perform the duties required by chapter thirty-two of the Public Statutes to be performed by town and city clerks, and who shall have the custody of all records, books and papers belonging to the city relating to births, marriages and deaths, and shall perform such other duties as may be required of him by the mayor, the board of aldermen, or the city council.

Subordinates.
R. O. p. 42.

SECT. 2. There shall be allowed to the city registrar, for the discharge of the duties of his department, the following subordinates : —

Three clerks for recording,
Three clerks for copying.

Annual report.
R. O. p. 42.

SECT. 3. The city registrar shall annually, in February, report to the city council a statement of the number of births, of notices of intension of marriage, of marriages solemnized, and of deaths recorded during the previous year ; with such other information and suggestions in relation to said matters as he may deem useful.

Undertakers'
fees for returns
to.
R. O. p. 42.

SECT. 4. The fees which undertakers are entitled, under section four of chapter thirty-two of the Public Statutes, to receive from the city registrar for making the returns required by said section, shall be considered to be included in the fees to which undertakers are entitled under section seventeen of chapter twenty-three of these ordinances.

NOTES.

The establishment of the office of city registrar is authorized by P. S. c. 32, § 16. The manner of appointment and removal of the registrar and his subordinates is determined by St. 1885, c. 266, §§ 1, 5.

The authority to make ordinances relative to the subject of this chapter is given by P. S. c. 32, § 18.

The duties of the city registrar, in addition to those prescribed by this chapter and by c. 47, § 9, of these ordinances, are mainly defined in P. S. c. 32, and P. S. c. 145, §§ 16-21, and by St. 1878, c. 243, § 12.

CHAPTER 21.

OF THE ASSESSORS' DEPARTMENT.

Section.

1. Appointment, duties, and terms of office.
2. of assistant assessors, subordinates.
3. Boards of assessors; organization.
4. Secretary of boards, duties.
5. Assessment districts.
6. Assistant assessors, duties.
7. Abatements of taxes, how made and recorded.

Section.

8. Tax-bills, when made, and to state certain facts.
9. records of, to be made and delivered with bills to city collector.
10. abatements, etc., amounts to be rendered to city collector.
11. Valuations for preceding five years to be transmitted annually to city council.

SECTION 1. There shall be appointed by the mayor, Appointment, duties and terms of office. subject to confirmation by the board of aldermen, in the year eighteen hundred and eighty-six, and in every third year thereafter, one assessor of taxes, and in every other year except those just mentioned, two such assessors. All said assessors shall be resident citizens, and shall devote their whole time to the service of the city, and they shall respectively hold office for three years from the first day of April in the year in which they are appointed. R. O. p. 43.

SECT. 2. There shall be annually appointed by the Appointment of assistant assessors. assessors of taxes, subject to confirmation by the mayor, two assistant assessors of taxes for each assessment district, one of whom shall be a resident citizen, and shall be denominated a "first assistant," and the other of whom shall be a resident of the ward within which the assessment district for which he is appointed is located, and shall be denominated a "second assistant." There shall be allowed to the assessors Subordinates. of taxes the following subordinates: —

One office clerk,
One assistant clerk,
One messenger.

SECT. 3. As soon as practicable after their appointment the assessors shall meet and organize themselves into a board, to be called the board of assessors, by the choice of a chairman and a secretary from their own number; and the assessors and first assistant assessors shall also meet and organize themselves into a board by the choice of a chairman from their own number, and sessions of said last-mentioned board shall be held on every week day, beginning with the sixteenth day of June, and not terminating sooner than the seventh day of August, unless by order of the board of assessors. Boards of assessors, organization. R. O. p. 43.

Secretary of
boards, duties.
R. O. p. 43.

SECT. 4. The secretary of the board of assessors shall also be the secretary of the board of assessors and assistant assessors, and he shall keep the records and doings of both said boards in the same book, in the order in which the meetings occur, always designating the board to whose doings each record relates.

Assessment
districts.
R. O. pp. 43, 44.

SECT. 5. The number, location, and boundaries of the assessment districts shall, until otherwise ordered, remain as at present established; and the board of assessors shall require all valuations and methods of assessment to be in conformity to law and uniform in their operation throughout the city.

Assistant as-
sessor, duties.
R. O. p. 44.

SECT. 6. The first assistant assessors shall assist the assessors in estimating the value of personal property, and shall, in their respective districts, with one of the assessors or second assistant assessors, appraise the value of the real estate in such districts, and take lists of the polls therein, and report the same to the board of assessors. In taking the list of polls the full and correct names of citizens shall be obtained, together with their previous residences. The second assistant assessors shall perform such duties as may be required of them by the board of assessors.

Abatements of
taxes, how made
and recorded.
R. O. p. 44.

SECT. 7. Abatements of taxes shall be made and recorded by the board of assessors, and the record of such abatements shall contain the names of all persons whose taxes have been abated in whole or in part, with the amount originally assessed to each, the amount of the abatement, and the reason for which it was made. The board of assessors may require the attendance of any of the first or second assistant assessors at any hearing for the abatement of taxes; and when a petition for abatement is refused, and the petitioner appeals to the board of street commissioners, the record of such refusal shall accompany the appeal. A record of each abatement made by the board of street commissioners shall, at the time when it is made, be transmitted by their clerk to the board of assessors, but the reasons for the abatement may be omitted from such record.

Tax-bills, when
made, and to
state certain
rates.
R. O. p. 44.

SECT. 8. The board of assessors shall make out and deliver to the city collector, on or before the first day of October in each year, tax-bills for all taxes assessed on persons or estates, and such bills shall have printed on them the rate for each thousand dollars of property assessed that has been required for state, county, and city taxes respectively, and also the proportion of the rate for the city tax which has been rendered necessary by the expenditures for the public schools.

records of, to
be made and de-
livered with bills
to city collector.
R. O. p. 44.

SECT. 9. Before delivering such tax-bills to the city collector the board of assessors shall have them recorded in books prepared for the purpose, and shall have the amounts thereof added together and footed at the end of each book,

and the aggregates of all the books also added together, so as to show the total amount of the taxes assessed ; and the said books shall be delivered, with such bills, to the city collector.

SECT. 10. The said board shall render to the city auditor, at the time when the tax-bills are delivered to the city collector, a statement of the amount of said bills ; and upon the first of every month the said board shall also render to said auditor a statement of the amount of all additional or supplementary assessments made during the preceding month, so far as the amount thereof has not been included in any statement previously rendered, and such monthly statement shall also include the amount of taxes abated, determined to be void, or remitted, which have been certified to the assessors during said month, giving also the year in which such taxes were laid.

Tax-bills, abatements, etc., amounts to be rendered to city collector.
R. O. pp. 44, 45.

SECT. 11. On or before the fifteenth day of January annually the board of assessors shall transmit to the city council a statement of the assessors' valuation of the taxable property in the city of Boston for the preceding five years, and of the abatements thereon allowed previous to the thirty-first day of December preceding the date of such statement ; and the average of said valuations reduced by said abatements shall likewise be stated.

Valuations for preceding five years to be transmitted annually to city council.

NOTES.

The general statute provisions regarding the assessment and collection of taxes are to be found in chapters 11-13 of the Public Statutes.

By section 37 of the city charter the city council is authorized " to provide for the assessment and collection " of taxes, and to " elect such assessors and assistant assessors as may be needful, or provide for the appointment or election of the same, or any of them, by the mayor and aldermen, or by the citizens, as in their judgment may be most conducive to the public good." See also P. S. c. 27, §§ 65-68. By St. 1885, c. 266, §§ 1, 2, the principal assessors are to be appointed by the mayor, subject to confirmation by the board of aldermen, and are removable by the mayor ; and the assistant assessors are to be appointed by the principal assessors subject to confirmation by the mayor, and are removable by the principal assessors upon assignment of causes.

St. 1884, c. 123, confirms the existing provisions of ordinance establishing the term of office of the assessors for three years, and authorizes the city council to fix the term of office of the assessors and assistant assessors by ordinance at not exceeding three years.

The main powers and duties of the assessors and assistant assessors of taxes in addition to those prescribed by this chapter, are defined in P. S. c. 11 ; and others are defined in P. S. c. 6, §§ 8, 9, 29 ; c. 12, § 5 ; c. 13, § 14 ; c. 14, § 7 ; St. 1874, c. 60, § 5 ; St. 1878, c. 243, §§ 1, 6. St. 1880, c. 225, § 1 ; St. 1883, c. 91. St. 1885, c. 355. Penalties for knowingly making an over-valuation of property for the purpose of evading laws limiting indebtedness and taxation are imposed by St. 1885, c. 355, § 3.

Assessors are public officers, and not agents of the city, which is not liable in an action of tort for their acts in illegally assessing a poll-tax. *Alger v. Easton*, 119 Mass. 77.

SECT. 5. The power of determining the location and boundaries of the assessment districts is vested in the board of assessors, as a part of the administrative business of their department, by St. 1885, c. 266, § 6.

SECT. 7. The statute provisions relative to the abatement of taxes are contained in P. S. c. 11, §§ 69-77.

SECT. 8. As to liability of assessors to the city, in a civil action for neglect to commit the tax-list to the collector or for other negligence, see *Lincoln v. Chapin*, 132 Mass. 470, 473. *Sherburne v. Fiske*, 8 Cush. 264, 266.

SECT. 11. See St. 1885, c. 178, §§ 1, 2.

Upon the question of domicile for purposes of taxation, see *Thayer v. Boston*, 124 Mass. 132-144, *et seq.*, and cases cited; *Wright v. Boston*, 126 Mass. 161; *Borland v. Boston*, 132 Mass. 89.

CHAPTER 22.

OF THE FIRE DEPARTMENT.

Section.

1. How composed.
2. Fire commissioners, appointment, term of office, etc.
3. may make rules and regulations, etc.
4. general powers and duties.
5. monthly and annual reports.

Section.

6. Chief engineer and assistants, powers and duties; penalty for non-removal of combustible materials or obstruction of commissioners or engineers.
7. Penalty for tampering with signal-boxes.
8. Certificates for seven years' service.

SECTION 1. The fire department of the city shall consist of a board of three fire commissioners, who shall have as subordinates a clerk, a chief engineer, a superintendent of fire-alarms, thirteen assistant engineers, and other officers, enginemen, telegraph operators, and members, to the number of seven hundred men.

How composed.
R. O. p. 46.

SECT. 2. There shall be annually appointed by the mayor, subject to confirmation by the board of aldermen, one person to be a member of the board of fire commissioners, and to hold office for the term of three years from the first Monday in May in the year of his appointment. The members of said board shall devote their time to the duties of their office, and shall not actively engage in any other business, and the clerk of said board shall not be a member thereof.

Fire commis-
sioners, appoint-
ment, term of
office, etc.
R. O. p. 46.

SECT. 3. The said board shall make such rules and regulations for their own government, and for the government of all the officers and members of the fire department, as they may deem expedient; and they shall make suitable regulations under which the officers and men of the said department shall be required to wear an appropriate uniform and badge, by which in case of fire and at other times their authority and position in the department may be known.

may make
rules and regula-
tions, etc.
R. O. p. 46.

SECT. 4. The duty of extinguishing fires and of protecting life and property in case of fire, within the city, shall be intrusted to the said board. They shall divide the city into fire districts; shall organize companies and battalions to work the apparatus for the extinguishing of fires; and shall establish a fire patrol by detail from the permanent force of the department, which patrol shall render such services in connection with the police department and with the department for the inspection of buildings as the said board may direct. Said board shall also have and exercise all the powers and duties given to the city council by chapter forty-five of the statutes of the commonwealth of the year eighteen hundred and seventy-eight.

general powers
and duties.
R. O. pp. 46, 47.

monthly and
annual reports.
R. O. p. 47.

SECT. 5. The said board shall make to the city council a monthly report of the location and of the number of fires that have occurred in the preceding month, the causes of such fires, and the amount of property destroyed thereby; and they shall annually, in May or June, submit in print a brief summary of matters of interest concerning their department.

Chief engineer
and assistants,
powers and
duties.
R. O. p. 47.

SECT. 6. The chief engineer and the assistant engineers of the fire department shall, under the direction of said board, examine all places where shavings or other combustible materials are collected or deposited, and shall report to said board from time to time the condition in this respect of the district to which they are respectively assigned; and, when said board deem that said materials so collected or deposited are liable to cause fires, they shall order the tenant or occupant of the place where they are deposited to remove them; and if such tenant or occupant neglects or refuses to comply with such order the said board shall cause such materials to be removed at his expense. Whoever neglects or refuses to remove such materials, or obstructs the said board or said engineers in the discharge of the duties hereby imposed upon them, shall be liable to a penalty of not less than five nor more than fifty dollars.

Penalty for non-
removal of com-
bustible mate-
rials or obstruc-
tion of commis-
sioners or en-
gineers.
R. O. p. 47.

Penalty for tam-
pering with sig-
nal-boxes.
R. O. p. 47.

SECT. 7. Whoever opens a signal-box connected with a fire-alarm telegraph for the purpose of giving, or causing to be given, a false alarm of fire, or interferes in any way with such a box by breaking, cutting, injuring, or defacing the same, or by pulling the slides therein, except in case of fire; and whoever without authority opens, tampers, or meddles with such a box, or with any part or parts thereof, or with the fire-alarm telegraph wires, or with anything connected therewith, shall be liable to a penalty of not less than five nor more than fifty dollars for each offence.

Certificates for
seven years'
service.
R. O. pp. 47, 48.

SECT. 8. Every person who serves in the said department for seven successive years shall be entitled to a certificate to that effect, signed by the mayor, which certificate shall be issued by the mayor upon receiving from the board of fire commissioners a written notification that the person is entitled thereto.

NOTES.

The power of the city council to establish a fire department, to create a board of fire commissioners, and to make the ordinances contained in this chapter, was originally given by St. 1850, c. 262. That statute has been amended by St. 1854, c. 375, and by St. 1873, c. 374, § 2. See also St. 1881, c. 229, § 2.

The general statute provisions relative to fire departments and the extinguishment of fires are to be found in P. S. c. 35; P. S. c. 14, § 5; P. S. c. 102, §§ 49, 50, 67; P. S. c. 203, §§ 1-9; P. S. c. 206, § 13; P. S. c. 170, § 2.

Special statutes relating to the fire department and to the extinguishment of fires in the city of Boston are to be found in St. 1873, c. 374; St. 1873, c. 258; St. 1877, c. 171; St. 1878, c. 45.

The members and apparatus of the fire department have the right of way while going to a fire through any street, lane, or alley in the city subject to such rules and regulations as the city council may prescribe; and wilfully or maliciously obstructing or retarding their passage is punishable by imprisonment or fine. St. 1873, c. 374, § 1.

For special statutes relative to the sale of fireworks in Boston, see St. 1853, c. 154; St. 1878, c. 45.

For statute provisions relative to "fire inquest," see P. S. c. 216.

For statute provisions relative to "fire-escapes" from buildings, see P. S. c. 104, §§ 15 *et seq.*; St. 1882, c. 266; St. 1883, c. 251; St. 1885, c. 374, §§ 105, 106.

For statute incorporating the "Boston Protective Department," see St. 1874, c. 61.

The officers of the fire department are not to be deemed the agents of the city, but public officers, and the city is not liable for injuries caused by their negligence in the performance of their duties. *Fisher v. Boston*, 104 Mass. 87, 93, 94. *Tainter v. Worcester*, 123 Mass. 311, 316. But the city is liable for the injury caused by its negligence in the removal of a fire-alarm telegraph wire for purpose not connected with the department. *Neuert v. Boston*, 120 Mass. 388.

The city is not liable for the demolition of buildings by officers of the fire department to stay the spread of fire unless it is done by the order of three or more engineers expressly specifying the building in question. *Bowditch v. Boston*, 101 U.S. (11 Otto) 16; P. S. c. 35, § 3, 5. See also *Taylor v. Plymouth*, 8 Met. 462; *Coffin v. Nantucket*, 5 Cush. 269; *Ruggles v. Nantucket*, 11 Cush. 433; *Parsons v. Pettingill*, 11 All. 507.

SECT. 3. A regulation imposing the forfeiture of a month's pay of one hundred dollars as a penalty for violation of the rules of the department is void. *Tyng v. Boston*, 133 Mass. 372.

SECT. 6. This section is specially authorized by St. 1850, c. 262, § 3.

SECT. 7. See similar provision in P. S. c. 206, § 13.

CHAPTER 23.

OF THE BOARD OF HEALTH.

Section.

Board of Health.

1. Appointment and term of office.
2. General powers and duties.
3. Subordinates and duties; city physician, duties; port physician and assistant, duties.
4. Board to control hospitals for infectious diseases, etc.
5. Annual report.

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6. Quarantine grounds defined.

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7. Board to superintend burial of dead.
8. to have charge of burial-grounds.
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10. to control digging of graves, etc.
11. Depth of graves.
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13. Bells not to be tolled at funerals.
14. Conveyance of bodies to graves.
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19. Dwelling-houses to be furnished with water-closets or privies; penalty for non-compliance.
20. Construction of vaults.
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22. Proceedings when dwelling-house has no proper water-closet, privy, etc.
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Section.

25. Applications for cleaning vaults, etc.
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House-Offal, Ashes, etc.

27. House-offal, how kept and removed.
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36. Vegetables, sale regulated.
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41. Penalty for defacing public urinals.
42. When ringing of bells may be suspended.
43. Tenements overcrowded, etc., may be ordered to be vacated under penalty.
44. Articles sold or work done, collections for, etc.

Appointment
and term of
office.
R. O. p. 50.

SECTION 1. There shall be a board of health, to consist of three members, one of whom shall be appointed annually by the mayor, subject to confirmation by the board of aldermen, to hold office for the term of three years from the first Monday in May in the year of his appointment. The clerk of the board shall not be a member thereof.

General powers
and duties.
R. O. p. 50.

SECT. 2. The said board may make such rules and regulations for their own government, and for the government of all subordinate officers in their department, as they deem expedient. The said board shall have and exercise all the powers and duties of the city council or of the board of aldermen relative to the public health, the establishment and

maintenance of bath-houses, and the quarantine of vessels; and they may make such regulations for the promotion of the public health as they deem necessary, and as are not inconsistent with the ordinances of the city.

SECT. 3. The said board shall be allowed for the discharge of their duties the following subordinates: —

Subordinates
and duties.
R. O. p. 50.

One city physician,
One assistant city physician,
One port physician,
One assistant port physician,
One chief clerk,
Five assistant clerks,
Fifteen inspectors,

who shall perform such official duties as said board may require. In addition, the following-named subordinates shall perform the following specific duties: —

The city physician shall keep such records and make such reports as the board of health may from time to time direct. He shall examine all causes of disease within the city; shall, when requested by the mayor or by said board, inquire into all sources of danger to the public health; and shall at all times, when required, give his professional services and advice in all matters relating to the public health.

City physician,
duties.
R. O. pp. 51, 52

He shall attend upon all cases of disease, and all other cases requiring his professional services, in the jail, the city prison under the court-house and the city temporary home. He shall, when requested by the board of police, examine all candidates for appointment on the police force; examine the condition of all members of the police force who are absent from duty on account of disability; examine the condition of persons who have sustained injuries by reason of accidents for which the city may be liable; and report to the city registrar, when requested by him, the causes of death of all persons who die with no physician in attendance.

He shall without charge vaccinate and revaccinate all inhabitants of the city who desire such vaccination, and shall give certificates of vaccination to children who have been vaccinated and require certificates thereof for admission to the public schools; but no person shall be entitled to the benefits of this section who wilfully neglects or refuses to return to the office of the city physician, when thereto requested by him, for the purpose of enabling him to ascertain the effect of the vaccination, or to renew the necessary supply of virus for the use of his office.

He shall always have on hand, as far as is practicable, a sufficient quantity of vaccine virus, and shall supply such

virus, without charge, to the physicians of the city institutions and of the Boston Dispensary.

He shall, when notified of the existence thereof, examine into any nuisances, sources of filth, or causes of sickness, which may be on board a vessel at a wharf within the harbor, or which may have been landed from a vessel, and he shall, under the direction of the board of health, cause all such nuisances, sources of filth, and causes of sickness to be removed or destroyed.

Port physician
and assistant,
duties.

R. O. pp. 52, 53.

The port physician and assistant shall reside at Deer Island, and shall perform all services in regard to quarantine which may be required of them by the mayor or by the board of health. The port physician shall be either physician or assistant physician of all the city establishments upon said island, as the board of directors for public institutions may elect; and he shall not go away from the island when the resident physician at the house of industry is absent.

Board to control
hospitals for in-
fectious dis-
eases, etc.

R. O. p. 50.

SECT. 4. The said board shall also have charge of all hospitals established by the city council, within the city or on the islands in the harbor, for the admission of persons having the small-pox or any other infectious disease, and they shall make such rules and regulations for the government and management of the patients in such hospitals as they deem proper. They shall also carefully guard against the introduction of cases of infectious disease into any building under their charge other than the hospitals established therefor.

Annual report.
R. O. pp. 50, 51.

SECT. 5. The annual report of the board shall contain a full and comprehensive statement of their acts during the preceding year, and a review of the sanitary condition of the city; and they shall at the same time transmit to the city council, reports covering the same period, from the city physician and the port physician.

Quarantine.

Quarantine
grounds defined.
R. O. p. 51.

SECT. 6. The quarantine grounds of the city shall consist of that portion of the harbor known as the "President Roads," and which lies between Long, Deer, and Spectacle Islands.

The Burial of the Dead.

Board to super-
intend burial of
dead.
R. O. p. 53.

SECT. 7. The burial of the dead shall be under the superintendence of the board of health, who shall, except as otherwise provided, carry into execution all statutes, ordinances, regulations, and orders relating thereto.

to have charge
of burial-
grounds.
R. O. p. 53.

SECT. 8. The said board shall have the care and custody of all the burying-grounds belonging to the city, excepting the Mount Hope and Cedar Grove Cemeteries; shall keep the same in good repair and secure from trespassers; and shall prevent any and all nuisances therein.

SECT. 9. The said board may sell and convey sole and exclusive rights of burial and of erecting tombs, cenotaphs, and other monuments in any lot or lots which the city may own in any burying-ground which may be in charge of said board.

Board may sell rights of burial, etc.

R. O. p. 53.

SECT. 10. No grave shall be open or dug in any of the burying-grounds of the city, unless by permission of said board, who may point out the place, depth, width, and range of all graves in the several burying-grounds, and shall forbid graves to be dug within any limits in said grounds within which it would in their judgment be dangerous to the public health to allow graves.

to control digging of graves, etc.

R. O. p. 53.

SECT. 11. No person shall bury a dead body, or cause one to be buried, in a grave which is less than three feet deep from the surface of the ground surrounding the grave to the top of the coffin.

Depth of graves.

R. O. p. 53.

SECT. 12. No person shall, except by the permission of the board of health, bury a dead body, or cause one to be buried, at any other time than between sunrise and sunset.

Burials to be by daylight.

R. O. p. 53.

SECT. 13. No bell shall be tolled at a funeral, unless a special permit therefor is obtained from the mayor or from the board of health.

Bells not to be tolled.

R. O. p. 53.

SECT. 14. The dead body of every person of ten years of age and upward shall be conveyed to the grave or tomb in a funeral car, drawn by not more than two horses, unless permission for a different mode of conveyance is given by the board of health.

Conveyance of bodies to graves.

R. O. p. 53.

SECT. 15. No person shall, without a license from the board of health, remove a dead body or its remains from a grave or tomb in the city, or disturb in a tomb or grave such body or its remains.

Removal of bodies from tombs, etc.

R. O. p. 53.

SECT. 16. No grave or tomb shall, without the special permission of the board of health, be opened between the first day of June and the first day of October, except for the purpose of interring the dead.

Graves, etc., not to be opened except, etc.

R. O. p. 54.

SECT. 17. For services rendered in relation to the burial of the dead, undertakers shall be entitled to receive the following fees, and no more, namely : —

Fees of undertakers.

R. O. p. 54.

For digging a grave eight feet deep and covering the same, three dollars and fifty cents ; for digging a grave six feet and six inches deep, two dollars ; for digging a grave five feet deep, one dollar and seventy-five cents ; for digging a grave four feet deep, one dollar and fifty cents ; for digging a grave three feet six and inches deep, one dollar and twenty-five cents ; but when the ground is frozen, the charges for digging graves may be augmented at the discretion of the board of health.

For opening and closing a tomb, one dollar and fifty cents.

For placing a body in a coffin, when requested, and removing the same downstairs, one dollar and fifty cents ; for

carrying a body to the tomb or grave, including the assistance of funeral porters and of two horses, seven dollars and fifty cents; for carrying a body out of the city, fifty cents in addition for each mile that the same is carried beyond the limits of the city; for carrying a body into a church for a funeral service, an additional fee of two dollars.

For lighting the vaults under a church, one dollar.

For the burial of children under ten years of age the fees shall be as follows: for services at the house, one dollar; for carrying the body to the carriage, and from the carriage to the place of deposit and interring the same, one dollar; for the use of a pall, twenty-five cents.

The fees for disinterring and removing bodies from graves or tombs shall be in accordance with the amount and nature of the services rendered.

Board may
make additional
regulations for
burials.
R. O. p. 54.

SECT. 18. The board of health may, with the approval of the mayor, make any regulations, not inconsistent with the foregoing provisions, in relation to the burial of the dead, which they may deem expedient.

Vaults and Drains.

Dwelling-houses
to be furnished
with water-
closets or
privies.

SECT. 19. The owner, agent, occupant, or other person having the care of a building used as a dwelling, tenement, or lodging-house, or where persons are employed, shall furnish the same with one or more suitable water-closets, or where such building is located on a street in which there is no public sewer, with a suitable privy, the vault of which shall be built in the manner hereinafter prescribed, and shall be of a capacity proportionate to the number of inhabitants of such building, or of those having occasion to use such privy. Every such building situated on a street in which there is a sewer shall have water-closets, and shall not have a cesspool or privy connected with it, except where, in the opinion of the board of health, it can be allowed to remain for a longer time, and then only as said board shall approve. And whoever neglects to comply with the provisions of this section shall be liable to a penalty of not less than five nor more than one hundred dollars, or by confinement in the House of Correction not exceeding sixty days.

Penalty for non-
compliance.
R. O. pp. 54, 55.

Construction of
vaults.
R. O. p. 55.

SECT. 20. Every privy-vault shall be made of brick and cement, and shall be of a capacity of at least eighty cubic feet, and the inside thereof shall be at least two feet distant from the line of any adjoining lot, unless by the consent of the owner of such lot, and at the same distance from any street or public or private passage-way; and every vault shall be so constructed as to be conveniently approached, opened, and cleaned, and shall be made tight, so that the contents thereof cannot escape therefrom.

SECT. 21. All waste-water and all matter discharged from water-closets shall be conveyed through sufficient drains, under ground, to a common sewer, or to such reservoir, sunk under ground, as may be approved by the superintendent of sewers, and no person shall suffer waste or stagnant water to remain in a cellar or upon a lot or vacant ground owned or occupied by him.

Waste-water,
etc., how to be
carried off.
R. O. p. 55.

SECT. 22. If the board of health is at any time satisfied that a building used as a dwelling, tenement, or lodging-house, or where persons are employed, is not provided with a suitable privy, vault, water-closet, and drain, or either of them, they shall give notice in writing to the owner, agent, occupant, or other person having the care of such building, or, in case neither the owner, agent, or person having the care thereof is an inhabitant of the city, they shall give public notice in two daily newspapers published in the city, requiring such owner, agent, occupant, or other person, within such time as they may appoint, to cause a proper and sufficient privy, vault, and drain, or either of them, to be constructed for such building, and in case of neglect or refusal to obey such notice, the board of health shall cause such privy, vault, or drain to be made for such building at the expense of such owner, agent, occupant, or other person; and in case such drain, vault, or privy is constructed as aforesaid for the use of more buildings than one, the owner, agent, occupant, or other person having the charge of each of such buildings, shall be liable to pay a proportional part of the expense of such construction.

Proceedings
where dwelling-
house has no
proper water-
closet, privy, etc.
R. O. p. 56.

SECT. 23. When a vault or privy becomes offensive, or a drain becomes obstructed, the owner, agent, occupant, or other person having charge of the land in which such vault, privy, or drain is situated, shall cause such privy or vault to be cleaned or abolished, or such drain to be made free, within such reasonable time after notice in writing to that effect given by the board of health as may be expressed in such notice, and, in case of neglect or refusal so to do, the board of health may cause such cleaning or making free to be done at the expense of such owner, agent, occupant, or other person.

Offensive vaults
or obstructed
drains to be
cleaned or made
free.
R. O. p. 55.

SECT. 24. No cesspool, vault, or privy shall be emptied without a permit from the board of health, nor in any other mode or at any other time than as said board may direct and appoint; and no vault shall be opened between the first day of June and the fifteenth day of September, unless said board is satisfied of the necessity of such opening for the health or comfort of the neighborhood; but in case of such opening, no more of the contents of the vault shall be taken away than said board deems to be absolutely necessary for present safety and relief, and such precautions shall be used relative to the prevention of offensive effluvia as said board

Cesspools,
vaults, etc., not
to be opened
without permit,
etc.
R. O. pp. 55, 56.

may direct, the expense to be borne by the owner, agent, occupant, or other person having charge of the premises.

Applications for
cleaning vaults,
etc.
R. O. p. 56.

SECT. 25. Books, in which shall be entered all applications for opening and cleaning vaults, shall be kept in convenient places under the charge of the board of health; and such applications shall specify the number of loads, if less than the whole contents of the vault, to be removed; and they shall, so far as practicable, receive attention in the several wards in the order in which they are made.

Board to make
contracts for
cleaning vaults,
fix price per
load, etc.
R. O. p. 56.

SECT. 26. The board of health shall, after advertising for proposals for such service, make from time to time contracts, for terms not exceeding three years, for cleaning all vaults in the city and removing the contents thereof, and shall fix the price per load to be paid by all parties whose vaults are emptied by such contractors; and the parties applying to have vaults cleaned shall be liable for the payment of such price, and also for any preparations that may be required in order to make their vaults ready for cleaning.

House-Offal, Ashes, etc.

House-offal,
how kept and
removed.
R. O. p. 56.

SECT. 27. All house-offal, whether consisting of animal or vegetable substances, shall be placed in suitable vessels, and no ashes or other refuse matter shall be mingled therewith; and such offal shall be kept in easily accessible places, to be taken away, as often as twice in each week, by the men in the employ of the superintendent of health.

Ashes for
removal, how
kept.
R. O. p. 56.

SECT. 28. Ashes kept for removal by the men in the employ of the superintendent of health shall not be mixed with other substances, but shall be kept in easily accessible places, in suitable metallic vessels, and in such a manner as not to communicate fire to any building or combustible material.

Ashes from
steam boilers,
etc., how
removed.
R. O. p. 56.

SECT. 29. Ashes and cinders from steam-engines or steam-boilers, or from forges or furnaces used for mechanical purposes, shall be removed at such times and in such manner as said board may direct, at the expense of the occupants or owners of the buildings in which such engines, boilers, forges, or furnaces are situated.

House-offal,
etc., carrying
through streets
to be licensed.
R. O. pp. 56, 57.

SECT. 30. No person shall carry in a public street house-dirt, or house-offal, either animal or vegetable, or grease, or bones, or other refuse substances, unless he has been expressly licensed therefor by the board of health, upon such terms and conditions as said board may deem that the health and interests of the city require.

Rubbish, etc.,
not to be placed
in streets, docks,
etc.
R. O. p. 57.

SECT. 31. No person shall, without permission from the board of health, throw into or leave in or upon a street, wharf, public enclosure, vacant lot, or pond or other body of water within the city, a dead animal, earth, dirt, gravel, sand, sweepings, sawdust, soot, ashes, cinders, shavings,

hair, shreds, manure, oyster, clam, or lobster shells, waste water, rubbish, or filth of any kind, or any refuse animal or vegetable matter whatever; nor shall any person throw into or leave upon a dock, flat, or tide water within the jurisdiction of the city, a dead animal or other foul or offensive matter, except as provided in section thirty-four of this chapter.

SECT. 32. If any of the substances mentioned in the preceding section are thrown or carried from a house, warehouse, shop, cellar, yard, or other place, and left in any of the places specified in the said section, the owner and occupant of such house, warehouse, shop, cellar, yard, or other place, and the person who actually threw, carried, or left the same, or who caused the same to be thrown, carried, or left, shall severally be held liable for a violation of the said section; and all substances so thrown or carried and left, shall, within two hours after personal notice in writing to that effect, given by the board of health, be removed by such owner, occupant, or other person, from the place where they have been so thrown or left as aforesaid; or such removal shall be made under the direction of said board, and the expense thereof borne by such owner or occupant.

Liability for
breaches of pre-
ceding section.
R. O. p. 57.

SECT. 33. All dirt, sawdust, soot, ashes, cinders, shavings, hair, shreds, manure, oyster, clam, or lobster shells, waste-water, and all animal or vegetable substances, rubbish, or filth of any kind, in a house, warehouse, or other building, cellar, yard, unaccepted street, alley-way, or other place, which the board of health may deem injurious to the health of the city, shall be removed by the owner or occupant of such house, warehouse, or other building, cellar, yard, unaccepted street, alley-way, or other place, where the same may be found, within twenty-four hours, or such other time as the said board may deem reasonable, after notice in writing to that effect, served personally upon the owner or occupant, or upon his authorized agent, by a person competent to serve a notice in a civil suit, or left at the owner's, occupant's, or agent's last and usual place of abode, if the same is known and is within the commonwealth; or such removal shall be made under the direction of the board of health, and the expense thereof borne by the owner or occupant. No person removing any of the substances named in this section shall suffer it to leak, escape, or drop from any vehicle by him owned or driven into or upon any street, court, square, lane, alley, wharf, or vacant lot, within the limits of the city. Any person violating the provisions of this ordinance shall be liable to the penalty provided in section five of chapter one for breaches of these ordinances.

Rubbish, etc.,
on private
premises, re-
moval of.
R. O. p. 57.

Regulation of
board of health,
May 12, 1875.

Penalty.
R. O. p. 57.

General Health Regulations.

Fish, sale of,
general provi-
sions.
R. O. p. 58.

SECT. 34. No person shall, between the first day of June and the first day of October, bring into the city for sale, or shall sell, or offer for sale, any halibut, cod, haddock, or mackerel, until they have been cleansed of their entrails and refuse parts; and such entrails and refuse parts shall at no time be thrown overboard inside a straight line drawn from Point Allerton to Nahant. And no person shall sell or deliver, from any stall, fish-box, cart, or other place, fish of any kind, except flounders, smelts, and other small fish, salmon, and shad, until the same have been cleansed of their entrails. And no person shall sell, or offer for sale, in the city, fish of any kind, unless they are kept in covered stalls, fish-boxes, or other houses, or in covered carts, which shall always be kept clean and in good order, and well secured from the rays of the sun.

sale in streets
regulated.
R. O. p. 58.

SECT. 35. No person shall sell, or offer for sale, in the streets fish, lobsters, oysters, or shell-fish of any kind, except by permission of the board of health, and on such conditions as said board shall order.

Vegetables, sale
regulated.
R. O. p. 58.

SECT. 36. No person shall bring into the city, or have in his possession for sale, or sell, or offer for sale, any vegetables, excepting green peas and beans in the pods and green corn in the inner husks, which have not previously been divested of such parts or appendages as are not commonly used for food; and no person shall have such parts or appendages in his possession in a public or private market, or in a store, shop, or other place, or in a cart or vehicle used or occupied for the sale of vegetables or of other articles of food.

Damaged ani-
mal or vege-
table matter,
landing or sale
prohibited, ex-
cept, etc.
R. O. p. 58.

SECT. 37. No person shall bring into the city by land or water, or land on a wharf or other place, or shall sell, or offer for sale, any decayed or damaged grain, rice, coffee, fruit, potatoes, or other vegetable products, or tainted or damaged animal or vegetable substances whatever, without a permit therefor from, or in any other manner than as directed by, the board of health.

Fowls, swine,
and goats, not to
be kept without
license.
R. O. pp. 58, 59.

SECT. 38. No fowls, swine, or goats shall be kept within the limits of the city without the license of the board of health, and, if a license for the keeping thereof is granted, such animals shall be kept only in such place and manner as said board may direct. Between the first day of April and the first day of November in each year no green hides or horns shall be cured, stored, or suffered to remain within the limits of the city without a written permit from the board of health.

Green hides,
curing of, etc.,
restricted.

Regulation of
board of health,
May 7, 1875.

Stables regu-
lated.
R. O. p. 59.

SECT. 39. The owners and occupants of stables shall keep their stables and stable-yards clean, and shall not permit more than three cords of manure to accumulate or to remain uncovered outside of a stable building.

SECT. 40. No person shall, without a written permit from the board of health, remove manure, or cause or suffer the same to be removed, between the first day of May and the first day of November, except after twelve o'clock at night and before two hours after sunrise. No manure shall be removed except in a tight canvas-covered vehicle, with the covering so secured to the sides and ends of the vehicle as to prevent the manure from being dropped or left in any street or way in the city, in process of removal, or loaded in nor upon any street, court, square, alley, wharf, vacant lot, lane, or passage-way, nor upon nor across any sidewalk.

Manure, removal of.
R. O. p. 59.

Reg. board of health, May 10, 1875.

No filthy or offensive water shall at any time be sprinkled, poured, thrown, or put upon any street, lane, court, square, alley, wharf, or vacant lot within the limits of the city.

Filthy water not to be placed in streets, etc.
Reg. board of health, July 28, 1876.

No person shall keep, or allow to be kept, in any building, or on any premises of which he may be the owner, lessee, tenant, or occupant, more cows than at the rate of one for each three thousand square feet of land, in or near the built-up portion of the city, without a written permit from the board of health. Every person keeping a cow shall cause the place where it is kept to be well ventilated and drained, and kept at all times in a cleanly and wholesome condition.

Cows, keeping of, regulated.
Reg. board of health, July 28, 1876.

No salt, or mixture of salt with other matter, shall be sprinkled, scattered, or put upon any public street, way, or sidewalk of the city, while snow or ice overlies the surface of such street, way, or sidewalk, without the written permission of the board of health.

Salt, etc., not to be placed on snow or ice in streets.
Reg. board of health, Feb. 27, 1880.

SECT. 41. Whoever defaces a public urinal by writing or drawing thereon, or by painting or pasting thereon or attaching thereto a handbill, advertisement, or other drawing, and whoever scratches, mars, disfigures, misuses, or defiles such a urinal, shall be liable to a penalty of not less than five nor more than twenty-five dollars.

Penalty for defacing public urinals.
R. O. p. 59.

SECT. 42. The mayor or the board of health may require the usual ringing of a church or other bell to be suspended, when the illness of a person living in the neighborhood of the bell requires such suspension.

When ringing of bells may be suspended.
R. O. p. 59.

SECT. 43. When, upon due examination, it appears to the board of health that the number of persons occupying a building or tenement in the city is so great as to be the cause of nuisance and sickness, and the source of filth, or that a tenement or building is not furnished with sufficient privies, vaults, and drains, they may issue notice in writing to the persons occupying such building or tenement, or to any of them, requiring them to remove from and quit such building or tenement within such time as the said board deems reasonable. And if the person or persons so notified, or any of them, neglect or refuse to remove from and quit such building or tenement, within the time mentioned in such notice, the board of health may thereupon forcibly remove them, and

Tenements overcrowded, etc., may be ordered to be vacated, under penalty.
R. O. p. 59.

any such person shall be liable to a penalty of not more than fifty dollars for such neglect or refusal, and liable, also, for the expense of such removal.

Articles sold or
work done, col-
lections for, etc.
R. O. p. 59.

SECT. 44. When articles or materials belonging to the city, and in the care or control of the board of health or of the superintendent of health, are sold, or when work is done for an individual by persons in the employ of said board or of said superintendent, the clerks of said board and of said superintendent shall respectively enter, on books to be kept for that purpose, all such sales and all such work done, with the prices thereof, and shall forthwith make out bills for the same and deliver them to the city collector for collection.

NOTES.

Special authority for the appointment of a board of health in Boston is given by section 40 of the city charter. The three years' term of office of the members of the board of health is confirmed by St. 1881, c. 229, § 2, and the manner of appointing and removing its members and subordinates is fixed by St. 1885, c. 266, §§ 1, 5.

The general statute provisions relative to boards of health and their powers are to be found in P. S. c. 80; St. 1883, cc. 133, 136, 230; St. 1884, c. 98. Special statute provisions, as to the board of health of Boston, are found in St. 1816, c. 44, §§ 2-12; St. 1871, c. 280, §§ 34-45; St. 1876, c. 144; St. 1883, c. 144; St. 1885, c. 382. As to their power to erect wooden buildings for hospital purposes, see St. 1873, c. 4.

The statute provisions relative to the establishment and maintenance of bath-houses are to be found in P. S. c. 27, §§ 13, 14.

Statute provisions relative to burials and removals of dead bodies are to be found in P. S. c. 32, and P. S. c. 82; St. 1883, c. 124; St. 1884, c. 186; St. 1885, c. 278.

SECTS. 1-5. This ordinance does not confer upon the board of health power to erect a dam on a person's land, without his consent, for the purpose of abating a nuisance upon neighboring flats by flooding them, and the city is not liable for their acts in so doing. *Cavanagh v. Boston*, 139 Mass. 426, 434.

SECT. 6. This section is authorized by P. S. c. 80, § 62. Other statute provisions relative to quarantine are in P. S. c. 80, §§ 63-69.

SECT. 3. The statute provisions relative to vaccination are in P. S. c. 80, §§ 51-55, § 7 *et seq.* As to the validity of ordinances regulating burials, see *Austin v. Murray*, 16 Pick. 121, 125; *Commonwealth v. Goodrich*, 13 All. 546; *Commonwealth v. Fahey*, 5 Cush. 408.

SECT. 15. A penalty for the unauthorized disinterring, etc., of a dead body is provided in P. S. c. 207, § 47. But that statute has been held to apply only to disinterments for the purpose of dissection. *Commonwealth v. Slack*, 19 Pick. 304, 306.

SECTS. 19, 22, 23. See St. 1885, c. 382, §§ 2, 22.

SECT. 30. An ordinance similar to that contained in this section was held to be valid in *Vandine, Petitioner*, 6 Pick. 187.

SECT. 38. See P. S. c. 80, § 84; *Commonwealth v. Young*, 135 Mass. 526, and *Commonwealth v. Patch*, 97 Mass. 221.

SECT. 43. See a somewhat similar provision in P. S. c. 80, § 24. See also St. 1885, c. 382.

As to the power of boards of health in regard to regulating offensive trades, see *Winthrop v. Farrar*, 11 Allen, 398; *Taunton v. Taylor*, 116 Mass. 254; *Commonwealth v. Young*, 135 Mass. 526; in regard to abating nuisances, *Salem v. Eastern Railroad*, 98 Mass. 431; *Cambridge v. Munroe*, 126 Mass. 496; *Watuppa Reservoir Co. v. Mackenzie*, 132 Mass. 71; *Grace v. Newton Board of Health*, 135 Mass. 490;

Cavanagh v. Boston, 139 Mass. 426; in regard to infectious diseases, *Spring v. Hyde Park*, 137 Mass. 554, 557-560.

Boards of health are public officers for whose unauthorized or unlawful acts cities and towns are not liable. *Spring v. Hyde Park*, 137 Mass. 554, 556. See also *Cavanagh v. Boston*, 139 Mass. 426. As to personal liability of their members in tort, see *Brown v. Murdock*, 140 Mass. 314.

CHAPTER 24.

OF THE SUPERINTENDENT OF HEALTH.

Section.

1. Appointment.
2. Powers and duties ; subordinates.
3. Superintendent to assist board of health.

Section.

4. Superintendent to be member of board to purchase horses and fodder for city departments ; organization, powers and duties of board.
5. Horses, fodder, etc., how supplied to departments.

Appointment.
R. O. p. 51.

SECTION 1. There shall be annually appointed by the mayor, subject to confirmation by the board of aldermen, a superintendent of health.

Powers and
duties.
R. O. p. 51.

SECT. 2. The said superintendent shall have the care and maintenance of the city teams and city stables, and shall, under regulations to be approved by the board of health, and to their satisfaction, clean the public ways and catch-basins of the city, and remove house-dirt, ashes and offal.

Subordinates.

For the discharge of his duties he shall be allowed the following subordinates :—

One chief clerk,
One assistant clerk,
Four foremen,
Thirteen sub-foremen.

Superintendent
to assist board
of health.
R. O. p. 51.

SECT. 3. The said superintendent shall, at the request of the board of health, render to said board, in the discharge of its duties, all assistance which can be given by himself or his department.

to be member
of board to purchase horses and
fodder for city
departments.

SECT. 4. The superintendent of health, the superintendent of streets, and one member of the board of fire commissioners, to be annually designated therefor by said board, shall constitute a board for the purchase of horses and fodder, for all the departments of the city employing horses owned by the city.

Organization,
powers and
duties of board.

The said board shall organize annually, in April, shall meet at least twice a month, and oftener at the call of their chairman, shall make purchases of horses, as needed, and shall contract for supplies of hay, grain, fodder, straw, and other like articles. The animals or supplies, however, shall be paid for from the appropriation of each department requiring the same.

Further powers
and duties of
board.

The said board may from time to time employ a veterinary surgeon, and divide the expense between the departments for which purchases of horses are made. The said

board may also sell or exchange any horses owned by the city, but all such transactions shall be recorded on its books. The meetings of the board shall be at the office of the chairman, and he shall appoint one of his subordinates to keep the records of the board during his year of service.

SECT. 5. Every department needing any of the articles named in section four shall make a requisition therefor on the said board, and shall not make any purchase thereof in any other way.

Horses, fodder,
etc., how sup-
plied to depart-
ments.

NOTES.

The office of superintendent of health is created by ordinance under § 38 of the charter. The manner of his appointment and removal, and of the appointment and removal of his subordinates, is determined by St. 1885, c. 266, §§ 1, 5.

CHAPTER 25.

OF THE LAW DEPARTMENT.

Section.

1. Corporation counsel and city solicitor, appointment.
2. Assistant solicitors, conveyancers, and clerk, appointment.
3. Corporation counsel, powers and duties.
4. City solicitor, powers and duties.
5. to act in case of absence, inability, etc., of corporation counsel.

Section.

6. Books, records, etc.
7. Deeds and examination of titles.
8. Travelling expenses.
9. Law officers to appear only in city cases.
10. City solicitor to make annual report.

Corporation
counsel and city
solicitor, ap-
pointment.
R. O. p. 61.

SECTION 1. There shall be appointed annually, by the mayor, subject to confirmation by the board of aldermen, a corporation counsel and a city solicitor, each of whom shall hold office for one year from the first Monday in July in the year of his appointment, and while he holds such office shall hold no other office under the city government.

Asst. solicitors,
conveyancers
and clerk, ap-
pointment.
R. O. p. 61.
Ord. 1884, ch. 14.

SECT. 2. There shall be allowed in this department the following subordinates, viz. : a first assistant solicitor, a second assistant solicitor, two conveyancers, and a clerk. The foregoing subordinates shall be appointed and removed by the corporation counsel and city solicitor jointly.

Corporation
counsel, powers
and duties.
R. O. p. 61.

SECT. 3. The corporation counsel shall furnish legal opinions on such subjects or questions as may be submitted to him by the mayor, the board of aldermen, the common council, or the school committee; by any committee of the city council or of either branch thereof; or by any board or officer in charge of a department of the city government who may require advice in regard to the discharge of their official duties. He may, in his discretion, personally perform any of the duties of the city solicitor, the assistant solicitors, or the conveyancers; and, in performing such duty, shall have the first claim upon the services of all or the subordinates in the department. He shall audit all bills incurred under the provisions of section eight, shall supervise the finances of the department, and shall inform the city council whenever he deems it advisable for the city's interest that any additional legal assistance should be secured.

City solicitor,
powers and
duties.
R. O. p. 62.

SECT. 4. The city solicitor shall represent the city in all actions and suits to which the city is a party; shall appear as counsel in all other actions, suits, prosecutions, or hearings which may involve the rights and interests of the city; and shall defend the officers of the city in suits and prosecutions against them for their official action or for the performance of

their official duty, when an estate, right, privilege, ordinance, act, or direction of the city government is brought in question. He shall also, in behalf of the city and under the direction of any standing committee of the city council having charge of matters before the general court of the commonwealth, appear as counsel before the said general court, or before any committee thereof, when the interest or welfare of the city is directly or incidentally affected. And he may, under the direction of the mayor, expend in any year a sum not exceeding two thousand dollars, to be charged to the appropriation for incidental expenses. He shall, subject to the provisions of sections two and three, have the direction and control of the assistant solicitors and conveyancers in the discharge of their duties, and shall examine, or cause to be examined, all titles to real property, and have the care and custody of records relating to the same; shall draft, or cause to be drafted, all deeds and other legal papers pertaining to real property, which by law, usage, or agreement, the city may be at the expense of drawing; and shall perform such other professional duties, incident to his office, as may be required of him by the mayor, by the city council or either branch thereof, by a committee of said council or of either branch thereof, or by any board of the city.

SECT. 5. If the corporation counsel is absent or unable to act, or if there is a vacancy in his office, his duties and powers shall devolve, during the continuance of such absence, disability, or vacancy, upon the city solicitor.

Corporation counsel, in case of absence, inability, etc., city solicitor to act.
R. O. p. 62.

SECT. 6. The books, records, papers, and accounts of the law department shall be and remain the property of the city, and they shall be kept and maintained in the manner heretofore in use.

Books, records, etc.
R. O. p. 62.

SECT. 7. When the city buys or takes land, the city solicitor shall, if requested so to do by the grantor, furnish without charge the necessary deed for the transfer of the same. When a special contract for the investigation of a title to property is made with a conveyancer, by the city or by any department, such contract shall provide, if expedient, that not only the abstract of the title, but also a copy of the schedule or minutes upon which such abstract is based, shall be furnished to the city solicitor to be deposited in his office.

Deeds and examination of titles.
R. O. p. 62.

SECT. 8. When an officer of the law department is obliged to attend to the city's business out of the city limits he shall be allowed his reasonable travelling expenses, for which he shall render a bill.

Travelling expenses of.
R. O. pp. 62, 63.

SECT. 9. No person connected with the law department of the city shall, except as provided in section four, appear in court in any case to which the city is not a party.

Law officers not to appear except in city cases.
R. O. p. 63.

SECT. 10. The city solicitor shall annually, in June, make a report to the city council of all suits or legal proceedings

City solicitor to make annual report.
R. O. p. 63.

in which the city has an interest, begun, pending, or determined during the year next preceding the time of making said report; and in such report he shall state the names of the parties, the causes of action, the date when each suit or proceeding was begun, and before what court or tribunal, the amount of the judgment rendered, if any, and in whose favor, and the condition of all pending suits or proceedings, with such other information as may at any time be prescribed by the city council.

NOTES.

The offices of corporation counsel and of city solicitor are created under the general power conferred by § 38 of the city charter; the manner of their appointment and removal, and of the appointment and removal of their subordinates, is determined by St. 1885, c. 266, §§ 1, 5.

As to the power of a city solicitor to employ other counsel on behalf of the city, see *Fletcher v. Lowell*, 15 Gray, 103.

As to the effect upon the city's liability in an action of tort, of the city solicitor's statement of the purpose for which certain acts were done, see *Haskell v. New Bedford*, 108 Mass. 208.

CHAPTER 26.

OF THE POLICE DEPARTMENT.

Section.

1. Board of police, special powers.
2. Provisions when mayor assumes command.
3. Officers and members.
4. Persons in other departments may be appointed.
5. Special police appointed under St. 1878, ch. 244, § 7, notice of.

Section.

6. Board to control all property of the department; to appoint harbor police.
7. Bonds of officers for collection and custody of money, etc.
8. Police to aid fire department; penalty for not giving alarm of fire.
9. Board to furnish protection to city treasurer.
10. Witness fees of police.

SECTION 1. The board of police shall have and exercise all the powers conferred by the statutes of the commonwealth and the ordinances of the city upon the board of aldermen or upon the mayor and aldermen, in relation to licensing, regulating, and restraining billiard-tables, bowling-alleys, auctioneers, hawkers and peddlers,¹ carriages, wagons and other vehicles, intelligence offices, itinerant musicians, pawnbrokers, and dealers in second-hand articles and old junk.

Board of police,
special powers.
R. O. p. 64.

SECT. 2. When, in an emergency, the mayor assumes command of the whole or any part of the police force, he shall first notify the said board of his intention so to do, by a written notice left at their office, and immediately after assuming such command he shall give public notice thereof through one or more of the daily papers published in the city, stating in such notice the emergency which has called for his action.

Provisions when
mayor assumes
command.
R. O. p. 64.

SECT. 3. The maximum number of officers and members of the police department shall be as follows, namely:—

Officers and
members.
R. O. p. 65.

A superintendent of police.

A deputy superintendent of police.

A captain of police for each division.

A chief inspector and ten inspectors, for duty at the office of the superintendent of police.

Ord. 1884, ch. 22.

An inspector of carriage licenses.

An inspector of wagon licenses.

An assistant to the inspectors of carriage and wagon licenses, with the grade and pay of a patrolman.

An inspector of pawnbrokers.

An assistant inspector of pawnbrokers, with the grade and pay of a patrolman.

An inspector of intelligence offices.

An inspector of claims.

Thirty-four lieutenants.

¹ See also chap. 61, *post*.

Fifty-three sergeants.

A clerk to the superintendent of police.

A property clerk, who shall be selected from the sergeants.

Six hundred and forty-nine patrolmen.

Ten house watchmen for the public buildings.

A probation officer, to be appointed as provided by section seventy-eight of chapter two hundred and twelve of the Public Statutes, with the rank of an inspector.

A keeper of city lock-ups with the rank of captain.

Two assistant keepers of city lock-ups with the rank of lieutenants.

A steward of city lock-ups.

A matron of city lock-ups.

An engineer of the police steamboat.

A fireman of the police steamboat.

Such assistant clerks, for duty in the license department, as the law may from time to time require.

Persons in other departments may be appointed.
R. O. p. 65.

SECT. 4. The said board may from time to time appoint, in addition to those before enumerated, persons in the employ of other departments of the city service to be police officers for other departments with the department by which they are employed. The persons so appointed shall not at any time exceed fifty in number, and shall not be entitled to any compensation from the city on account of their services as police officers.

Special police appointed under St. 1878, ch. 244, § 7, notice of.
R. O. p. 65.

SECT. 5. When the said board appoint special patrolmen without pay, under the provisions of section seven of chapter two hundred and forty-four of the statutes of the commonwealth of the year eighteen hundred and seventy-eight, they shall communicate their action without delay to the mayor and city council.

Board to control all property of the department.
R. O. p. 64.

SECT. 6. The board of police shall have the care and management of all the city property belonging to the department, and the control and operating of such steamboats as are now or may hereafter be provided for its use; and the said board shall designate such officers and men as are necessary to constitute the harbor police for service on board such boats.

to appoint harbor police.

Bonds of officers for collection and custody of money, etc.
R. O. p. 66.

SECT. 7. Any member of the police department, to whom is intrusted the collection and custody of money or other property, may be required by said board to give such bond as they shall determine.

Police to aid fire department.

SECT. 8. The members of the police department shall aid the fire department by giving alarms in cases of fire in such manner as the fire commissioners may direct, and in clearing the streets or grounds in the immediate vicinity of a fire, so that the members of the fire department may not be hindered or obstructed in the performance of their duties. If a policeman refuses or neglects to give an alarm as afore-

said, or refuses to obey the orders of the chief officer in command at a fire, he shall be liable to a penalty of not less than five nor more than twenty dollars.

Penalty for not giving an alarm of fire.
R. O. p. 66.

SECT. 9. The board of police shall from time to time furnish to the city treasurer such officers as the latter may deem necessary for the protection of the persons connected with his office in making disbursements of the money in their charge and in carrying money and valuable bonds and papers to and from said office.

Board to furnish protection to city treasurer.
R. O. p. 66.

SECT. 10. The members of the police department may, when off duty or in reserve, receive for their own use one witness fee for each day's attendance before the grand jury or before the supreme or superior court; all other witness fees earned by them shall be paid over to the city collector, and shall be kept as a separate fund, and invested and managed by the mayor, treasurer, and auditor of the city for the time being, who shall be trustees thereof. The income of the said fund shall be applied to the relief of persons who have received an honorable discharge from the police force by reason of sickness, age, or other disability, and who are, in consequence of such disability, in necessitous circumstances; and also to the relief of the widows and orphans, in necessitous circumstances, of police officers who have died while in the service of the city. Said trustees may make such rules and regulations for the appropriation and disbursement of the interest of said fund as they may deem expedient, subject, however, to such ordinances or orders as the city council may from time to time adopt.

Witness fees of police.
R. O. p. 66.

NOTES.

The board of police was created and its powers are defined by St. 1885, c. 323. That act (§ 2) confers upon the board of police, appointed by the governor by and with the advice of the council, all the powers formerly vested in the board of police commissioners by statute or ordinance.

The authority to make the ordinances contained in this chapter is derived mainly from St. 1878, c. 244, §§ 3 and 9, which does not appear to be affected by St. 1885, c. 323.

SECT. 2. The authority of the mayor to assume command of the police force in an emergency was given by St. 1878, c. 244, § 8, and is confirmed by St. 1885, c. 323, § 6, that before assuming control he shall issue his proclamation to that effect.

SECT. 3. The appointment of a superintendent and a deputy-superintendent of police is required by statute, but the number and character of the other officers of the police department is left to be determined by ordinance. St. 1878, c. 244, § 3, St. 1885, c. 323, § 2. The appointment of the superintendent, deputy-superintendent, and captains of police, which by St. 1878, c. 244, § 3, was made subject to the approval of the mayor, appears to be vested absolutely in the board of police by St. 1885, c. 323, § 2. By St. 1882, c. 125, and P. S. c. 28, § 5, the mayor may appoint, subject to confirmation by the board of aldermen, two additional probation officers. Probation officers are by this ordinance made a part of the police force of the city (see P. S. c. 212, § 74), and their appointment is therefore transferred by St. 1885, c. 323, § 2, to the board of police.

SECT. 10. An ordinance similar to this, in requiring police officers to pay into the city treasury fees received by them, was held valid in *Worcester v. Walker*, 9 Gray, 78, 80-1.

The members of the police force are public officers, and are not agents of the city. The city is not liable for their acts in an action of tort (*Buttrick v. Lowell*, 1 All. 172), and is liable for injuries sustained by them by reason of a defective highway (*Kimball v. Boston*, 1 All. 417).

A policeman, inspecting a building in accordance with a rule of the police department, can recover against the owner or occupant for injuries received by falling down an elevator-well not guarded in accordance with law, though a penalty is attached to the failure to guard it. *Parker v. Barnard*, 135 Mass. 116.

CHAPTER 27.

OF THE SEWER DEPARTMENT.

Section.

1. Superintendent, — appointment, powers, and duties.
2. to make plans of sewers, etc.
3. to keep account of expense of each sewer, etc.
4. Sewer assessments, how made; on city lands to be abated.
5. Collection of assessments.
6. Superintendent's subordinates.
7. Licenses to enter drains into sewers; licensees to give bonds; who may be licensed.
8. Penalty for entering sewer without license.
9. Penalty for constructing, etc., drain in street without license, etc.

Section.

10. Permits for private drains not to exempt from sewer assessment.
11. Drains clogged, etc., to be cleaned, repaired, etc., under penalty.
12. Penalty for allowing gravel, etc., to run into drain.
13. Drains to be provided with cesspools, etc.; cesspools to be cleaned, etc.
14. Proceedings and penalty for non-compliance with preceding section.
15. Rate for entering sewer from land not previously assessed.
16. Annual report of superintendent.

SECTION 1. There shall be annually appointed by the mayor, subject to confirmation by the board of aldermen, a superintendent of sewers, who shall have charge of the construction of all common sewers ordered to be made by the board of aldermen, or by the city council, duly authorized to that end. He shall have the care, custody, and management of all the property of the city which has been or shall be acquired as necessary to the construction or maintenance of such sewers. He shall also have the general supervision of such sewers as are owned by the city, or permitted to be built or opened by its authority, and shall make all necessary repairs thereon for which appropriations have been made. He shall build such catch-basins for the public ways, and at such points and grades, as the superintendent of streets may designate.

Superintendent,
— appointment,
powers, and
duties.
R. O. p. 68.

SECT. 2. The said superintendent shall, when a common sewer is ordered to be built or repaired, ascertain its depth, breadth, mode of construction, and general direction, and shall cause a plan thereof to be made and inserted, with all said particulars, in books to be kept for the purpose, and he shall from time to time ascertain and insert on said plan all entries made into such sewer.

Catch-basins.

to make plans
of sewers, etc.
R. O. p. 68.

SECT. 3. The said superintendent shall keep an accurate account of the expense of constructing and repairing each common sewer, and shall report the same to the board of aldermen, together with a list of the persons and estates deriving benefit from such construction or repair, and an estimate of the area of the lands upon which such expense ought to be assessed.

to keep
account of ex-
pense of each
sewer, etc.
R. O. p. 68.

Sewer assessments, how made.

R. O. pp. 68, 69.

SECT. 4. The board of aldermen, in making assessments for defraying the expense of constructing or repairing a common sewer, shall deduct from such expense a part, not less than one quarter, as they may deem expedient, which shall be charged to and paid by the city, and they shall assess the remainder of such expense upon the persons and estates deriving benefit from such sewer, either by the entry of their particular drains or by any remote means, apportioning the assessment according to the area of the lands thus benefited.

Assessments on city lands to be abated.

The said board shall also make an abatement of all the amount which has been assessed upon land owned by the city, which shall be charged to and paid by the city.

Collection of assessments.
R. O. p. 69.

SECT. 5. The said superintendent shall enter in books kept for the purpose all such assessments made by the board of aldermen, and shall forthwith make out bills for the same and deliver them to the city collector for collection.

Superintendent's subordinates.

SECT. 6. The said superintendent shall be allowed for the discharge of his duties the following subordinates:—

One chief engineer,
Three assistant engineers,
One clerk,
Two assistant clerks,
Two draughtsmen,
One assistant draughtsman,
Four foremen,
Three inspectors of house-connections.

Licenses to enter drains into sewers.
Licensees to give bonds.
R. O. p. 69.

SECT. 7. It shall be the duty of the superintendent to grant permits for the entering of particular drains into common sewers on such conditions as to size, material, direction, grade, and mode of construction as he may prescribe; *provided* that he obtains from every person so licensed a bond with one or more sureties, the same to be satisfactory to the mayor, to indemnify the city for any damages caused directly or indirectly by his acts performed under such permit; and provided that the licensee, so far as his permit involves any entering upon or occupancy of any portion of a public way shall be subject to the ordinances and to the regulations of the street department.

Who may be licensed.

The only persons to whom such licenses shall be issued shall be competent mechanics, tax-payers in the city of Boston; but no person who has broken the conditions of such a license, shall be granted another license for the period of one year after the date of such breach.

Penalty for entering sewer, etc., without license.
R. O. p. 70.

SECT. 8.¹ Every person undertaking to enter a particular drain into a common sewer, without a permit in writing from the said superintendent, shall be liable to a penalty of not less than twenty dollars.

¹ See also chap. 23, sects. 4 and 5.

SECT. 9. If a drain in a street or highway is constructed or repaired, or if an excavation for the purpose of such construction or repair is made, by a person not licensed as provided in section seven, or in a mode different from that prescribed in said section, the person doing such work and the owner or agent directing the same shall respectively be liable to a penalty of not more than twenty dollars.

Penalty for constructing, etc., drain in street without license, etc.
R. O. p. 70.

SECT. 10. No owner of real estate shall, by the construction of a private drain under the permit of the superintendent of sewers, be exempted from an assessment lawfully imposed for the construction of a common sewer in the same vicinity.

Permits for private drains not to exempt from sewer assessment.
R. O. p. 70.

SECT. 11. When a drain connecting with a common sewer or with another drain becomes clogged, obstructed, broken, out of order, or detrimental to the use of the sewer or of another drain, or unfit for the purposes of drainage, the owner, agent, occupant, or person having charge of the premises drained by said drain, shall, within five days after notice in writing to that effect from the superintendent of sewers, remove, reconstruct, repair, alter, or cleanse such drain, as the condition thereof may require, and in case of neglect or refusal for the space of five days so to do, the superintendent of sewers shall cause such drain to be removed, reconstructed, repaired, altered, or cleansed, as he may deem expedient, at the expense of such owner, agent, occupant, or other person, who shall also be liable to a penalty of not more than fifty dollars.

Drains clogged, etc., to be cleaned, repaired, etc., under penalty.
R. O. p. 70.

SECT. 12. Every owner, agent, occupant, or other person having charge of premises drained into a common sewer or drain, who permits gravel, sand, ashes, or any substance or matter which may form a deposit or obstruction therein, to flow or pass into such sewer or drain, shall be liable to a penalty of not more than twenty dollars for each offence.

Penalty for allowing gravel, etc., to run into drain.
R. O. p. 70.

SECT. 13. Every such owner, agent, occupant, or other person shall, within ten days after notice in writing to that effect from the superintendent of sewers, provide his drain with a sufficient cesspool or catch-basin, or, if one already exists, shall clean out, repair, or alter the same, and shall provide such other means as will prevent any substance or matter, which may cause a deposit or obstruction therein, from passing into such sewer or drain.

Drains to be provided with cesspools, etc.; cesspools to be cleaned, etc.
R. O. pp. 70, 71.

SECT. 14. In case of neglect or refusal for the space of five days to provide a cesspool or catch-basin, or to clean out, repair, or alter such cesspool or catch-basin, if one exists, the superintendent of sewers shall cause to be constructed a suitable and sufficient cesspool or catch-basin, or, if one exists, shall cause it to be repaired, altered, and cleaned, and provided with such other means to prevent any substance or matter, that may cause a deposit or obstruction therein, from passing into the sewer or drain, as he may deem expedient,

Proceedings and penalty for non-compliance with preceding section.
R. O. p. 71.

at the expense of the owner, agent, occupant, or other person having charge of the premises, and such owner, agent, occupant, or other person shall also be liable to a penalty of not more than twenty dollars.

Rate for entering sewer from land not previously assessed.
R. O. p. 71.

SECT. 15. Every owner of real estate entering his particular drain into a common sewer from land upon which no sewer assessment has been levied, shall pay to the city therefor at the rate of two cents per square foot for all land benefited by such connection within one hundred and twenty-five feet of said sewer; the amount so paid to be deducted from any subsequent assessments upon said land.

Annual report of superintendent.
R. O. p. 71.

SECT. 16. The superintendent of sewers shall annually, in January, make a report to the city council, containing a statement of the expenditures, income, and business of his department during the preceding year, a schedule of the property belonging to the department, and such other information and such suggestions as he may deem expedient.

NOTES.

The office of superintendent of sewers is created by ordinance, under the general powers conferred by § 38 of the charter. Its duties are set forth wholly in this chapter, and in c. 23, § 21. The appointment and removal of the superintendent and of his subordinates are governed by St. 1885, c. 266, §§ 1, 5.

The power of the board of aldermen in locating sewers is of a quasi-judicial character, and is exercised by them as a board of public officers and not as agents of the city (*Child v. Boston*, 4 Allen, 41, 51), and is not affected by St. 1885, c. 266, §§ 6, 12, which transfers all their executive powers to the mayor. The construction and maintenance of sewers, being executive work, is, however, transferred to the mayor and the superintendent by St. 1885, c. 266, §§ 6, 12.

The general statute provisions relative to the laying out of sewers are to be found in P. S. c. 50. By St. 1877, c. 228, § 2, the city council is authorized to confer upon the board of street commissioners the powers of the board of aldermen in relation to sewers. The act requires acceptance by the city council, and has never been accepted.

Special statutes relating to sewers in Boston are St. 1873, c. 205 (relative to diverting watercourses); St. 1872, c. 267, and St. 1873, c. 260 (relative to Muddy River); St. 1868, c. 223, St. 1870, c. 220, St. 1871, c. 340, and St. 1874, c. 196 (relative to Stony Brook); St. 1875, c. 202 (relative to Mystic Valley); St. 1876, c. 136, St. 1879, c. 230, and St. 1882, c. 256 (relative to main sewer to Moon Island); St. 1879, c. 98 (Roxbury Canal).

The city is not liable to individuals for any defect or want of sufficiency in any plan or system of drainage that is adopted by its proper officers. *Child v. Boston*, 4 Allen, 41, 51. — *Hill v. Boston*, 122 Mass. 344, 359.

Nor for injury caused to the business of an individual by obstructing the street adjoining his premises by the building or repair of a sewer. *Brooks v. Boston*, 19 Pick. 174, 178. (See also *Treadwell v. Boston*, 123 Mass. 23, 25, for a similar decision as to the widening of a street.)

But the city is liable for injuries caused by the neglect or carelessness of its officers and agents in the construction or repair of a particular sewer. *Murphy v. Lowell*, 128 Mass. 396. — s. c. 124 Mass. 564, 567. — *Child v. Boston*, 4 Allen, 41, 52. — *Emery v. Lowell*, 104 Mass. 13, 15. — *Hill v. Boston*, 122 Mass. 344, 359. In certain exceptional cases, however, it has been held that a city was not liable even for the conse-

quences of such neglect. *Ranlett v. Lowell*, 126 Mass. 431. — *Barry v. Lowell*, 8 Allen, 127. *Lemon v. Newton*, 134 Mass. 476.

As to the city's liability for nuisances created by the discharge from sewers, see *Haskell v. New Bedford*, 108 Mass. 208; *Brayton v. Fall River*, 113 Mass. 218.

SECT. 1. The board of aldermen lay out sewers under the power conferred by P. S. c. 50; certain sewers have been or may be laid out by the city council under the authority of special acts. St. 1876, c. 136 (Moon island); 1875, c. 202 (Mystic valley).

As to the right to construct a sewer in a street accepted but not constructed, without further notice, see *Lawrence v. Nahant*, 136 Mass. 477.

SECT. 2. A failure to comply with the provisions of this section will not invalidate the assessment for a sewer. *Kelso v. Boston*, 120 Mass. 297, 299.

SECT. 3. This section appears to be directory only, and non-compliance with it will not invalidate an assessment. *Dickinson v. Worcester*, 138 Mass. 555, 560-1. — *Lowell v. Hadley*, 8 Met. 180. See also *Saunders v. Lowell*, 131 Mass. 387.

SECT. 4. This section is founded on P. S. c. 50, § 11. The authority to apportion the assessments according to the *area* of the land benefited is given by P. S. c. 50, § 7. Under P. S. c. 50, §§ 1 *et seq.* (St. 1869, c. 111), and G. S. c. 19, § 17 (St. 1854, c. 448, § 33), and St. 1873, c. 205, the board of aldermen may order a structure which shall serve both as conduit for a stream and as a common sewer, and may assess for that part of the expenditure which was necessary for the structure as a sewer. *Gray v. Board of Aldermen of Boston*, 139 Mass. 328.

The validity of assessments, under an earlier ordinance, similar to this section, was sustained in *Downer v. Boston*, 7 Cush. 277, 280, and in *Wright v. Boston*, 9 Cush. 233. Assessments are to be made according to the value of the land benefited, without the buildings. *Snow v. Fitchburg*, 136 Mass. 183. The relative benefit received by each estate is of no consequence in determining the amount of the assessment. *Workman v. Worcester*, 118 Mass. 168. — *Keith v. Boston*, 120 Mass. 108. — *Snow v. Fitchburg ubi supra*.

SECT. 5. The mode of collection of sewer assessments is provided for by P. S. c. 50, §§ 4, 10.

SECT. 8. An ordinance similar to this section was held to be valid in *Ranlett v. Lowell*, 126 Mass. 431.

SECT. 9. A provision somewhat similar to that contained in this section is to be found in P. S. c. 50, § 12.

SECT. 11. See all statute provisions in P. S. c. 50, §§ 16-18.

In all matters relative to drainage and sewers elevations are determined by reference to mean low-water mark, which is called zero. The grade of the coping of the dry-dock, at the navy-yard, in Charlestown, is called *grade fifteen*, being fifteen feet above low-water mark; and the grade of the intersection of the streets, in the Back Bay territory, is called *grade eighteen*, being eighteen feet above said low-water mark. Ordinary high-water is ten feet above low-water mark, but it is not very uncommon for spring tides, moved by strong easterly winds, to rise to fourteen feet above low-water mark.

In fact, the "city base," so called, is .64 of a foot below mean low-water mark as determined at the Charlestown dry-dock.

CHAPTER 28.

OF THE STREET DEPARTMENT.

Section.

Street Names and Numbers.

1. Streets to retain names till altered.
2. Numbering of buildings on streets; penalty.

Defects, Excavations, and Obstructions in Streets.

3. Laws relative to use of streets for building purposes to be enforced by inspector of buildings.
4. Permits for opening streets; repairs of defects, etc.; permits for entering sewers to be limited as to time and space; other permits, how issued; licensee to give bond, etc.; penalty against licensee for neglect, etc.
5. Excavations to be licensed.
6. fence and lights to be put up at.
7. Permits for use of streets for building purposes.
8. Fence and lights to be put up when streets are so used.
9. Penalty for extinguishing lights put up under Sects. 6 and 8.
10. Penalty for breaches of Sects. 7 and 8.
11. Cellar-doors, door-ways, and steps regulated.
12. not to remain open unless, etc.
13. Cellar-doors, etc., to be kept in repair, etc.; penalty.
14. Descending steps, railings around.
15. Gratings regulated.
16. Coal-hole coverings, etc., regulated.
17. Coal-holes and other openings may be authorized.
18. Safe passage around obstructions to be provided, etc.; penalty.

Projections into Streets.

19. Projecting porches, windows, steps, etc., forbidden; penalty.
20. Awnings, shades, etc., regulated.
21. Penalty for breach of preceding section.
22. Signs, show-bills, etc., regulated; penalty.
23. Same subject.
24. Merchandise, etc., not to be suspended over streets.

Laying Underground Telegraph or Telephone Wires.

25. Telegraph and telephone wires underground, regulations.
26. Surface of street not to be disturbed without permit, etc.
27. Street to be restored to a satisfactory condition.
28. Each company to control its own conduits.

Section.

29. Number of excavations limited.
30. Gas and water-pipes, sewers, etc., not to be disturbed.
31. Agreements to be executed before permit is granted to open streets; conditions.
32. Bond to be given also.

Use of Streets.

33. Moving of buildings in streets regulated; penalty.
34. Lumber, merchandise, etc., not to be placed in streets; penalty.
35. Snow and ice thrown in streets to be broken up; penalty.
36. Coal and wood not to be allowed to remain in streets.
37. Fast-driving prohibited, except, etc.; penalty.
38. Vehicles over ten feet wide prohibited; penalty.
39. Driving cattle, etc., forbidden, except, etc.
40. Grazing animals, feeding, or going at large, forbidden.
41. Carriages and horses not to be cleaned in streets, etc.
42. Watering streets to be licensed.
43. Ringing bells or blowing of horns to give notice of business, forbidden.
44. Grinding cutlery or selling goods to be licensed.
45. Gaming or exposing gaming devices in streets, etc., forbidden.
46. also playing ball, throwing stones, etc.
47. also using bow and arrow.
48. also coasting, except, etc.
49. also using obscene language.
50. also bathing in view of spectators.
51. also removing street dirt or manure without license.
52. also climbing, tying horses to, or posting bills on trees.
53. also cleaning carpets.

Sidewalks.

54. Aldermen may regulate height and width and accept when built.
55. Accepted, maintenance of, etc.
56. record to be kept of.
57. Vehicles and horses prohibited on.
58. Also show-boards, placards, etc.
59. Also firewood, saw-horses, etc.
60. Signs not to be inserted in, except, etc.
61. Remaining on so as to obstruct travel, forbidden; penalty.
62. Removal of snow from required; penalty.

Section.

63. Encumbered with ice to be made safe; penalty.

64. Owners of tenement-houses to keep sidewalks clear of ice and snow; penalty.

Section.

Powers of Surveyors of Highways.

65. Rights and duties of mayor as surveyor of highways not limited by this chapter.

Street Names and Numbers.

SECTION 1. The several streets in the city shall, until they are altered by the board of street commissioners, confirmed by the board of aldermen, continue to be called and known by the names heretofore given to them by the selectmen of the town or by the mayor and aldermen or city council of the city.

Streets to retain names until altered.

R. O. p. 74.

SECT. 2. The board of aldermen may order the buildings on any street to be numbered, and the superintendent of streets shall then require the number designated for each building to be affixed thereto or inscribed thereon, and may determine the form, size, and material of any such number, and the place and mode of affixing or inscribing it. And any owner or occupant of a building who neglects or refuses to affix to the same, the street number lawfully designated therefor, or who affixes to such building, or retains thereon for more than one day, a street number other than the one so designated, shall for each offence be liable to a penalty of not less than one nor more than twenty dollars.

Numbering of buildings on streets.

R. O. p. 74.

Penalty.

Defects, Excavations, and Obstructions in Streets.

SECT. 3. The inspector of buildings shall see that all statutes, ordinances, orders, and regulations, respecting the use or occupation of portions of streets for the purpose of erecting, altering, repairing, or removing buildings, are observed and enforced.

Laws, etc., relative to use of streets for building purposes to be enforced by inspector of buildings.

R. O. p. 75.

SECT. 4. No portion of any public way shall be broken or dug up except under a permit therefor granted by the superintendent of streets. The said superintendent shall issue such permits to any department for the prosecution of any city work on the written request of the board, or officer in charge of such department. When an excavation for any purpose is made in a public way, by order of a department of the city government, the street shall, as soon as the purpose for which the excavation was made has been accomplished, be restored to a condition entirely satisfactory to the superintendent of streets; and, if it is not so restored, although it may not be dangerous to public travel, the said superintendent shall notify the department, which ordered the excavation to be made, to make forthwith such further repairs as he deems necessary, and, if such department neglects so to do, the said superintendent shall cause such repairs to be made, and shall charge such department therefor.

Permits for opening streets.

R. O. p. 76.

Repairs of defects, etc.

R. O. pp. 75, 76.

Permits for entering sewers to be limited as to time and space.

Whenever the applicant presents a permit from the superintendent of sewers to enter a drain into a common sewer, the permit for opening a street shall be given, subject to such limits of time and space as the superintendent of streets may prescribe.

Other permits to open streets, how issued.

In the case of other applicants the permit for opening shall be issued at the discretion of the superintendent of streets, but shall always be on condition that the applicant will conform to the statutes and ordinances thereto applicable.

Licensee to give bond, etc.

The licensee shall also give a bond, with one or more sureties, the same to be satisfactory to the mayor, that he will indemnify the city for any damage caused directly or indirectly by any acts performed under such permit, and will restore the street to its former condition, to the satisfaction of the said superintendent of streets; and that in case of the refusal or neglect of such licensee so to restore the street, it shall be repaired and mended at his expense by the said superintendent. Any licensee who shall neglect or refuse to comply with the conditions of his permit shall be liable to a penalty of not less than five nor more than fifty dollars for each day during which such neglect or refusal continues, and shall not, for the space of one year thereafter, receive another permit for opening a street.

Penalty against licensee for neglect, etc.
R. O. p. 76.

Excavations in streets to be licensed.
R. O. p. 76.

SECT. 5. No person shall make, or cause to be made, an excavation in a street for any purpose whatever without a license from the superintendent of streets subject to the regulations herein prescribed. Every application for such a license shall be made in writing and signed by the applicant, and shall set forth the dimensions of the proposed excavation and the purpose for which it is to be used; and every such license shall provide that the excavation licensed shall not be used for any purpose other than that stated in the application, and may at any time be revoked by the said superintendent. But no excavation shall be made, the inner face of the wall of which extends further under the street than to a line eighteen inches inside the line of the outer edge of the curbstone of the sidewalk.

Fence and lights to be put up at excavations.
R. O. p. 76.

SECT. 6. When an excavation is made in a street for any purpose, the person or persons by or for whom such excavation has been made shall cause a rail or other sufficient fence to be placed so as to enclose such excavation and the dirt, gravel, or other material thrown therefrom, and such fence shall be maintained during the whole time for which the excavation continues, and he or they shall also cause a lighted lantern, or some other proper and sufficient light, to be fixed to some part of such fence, or in some other proper manner over or near the excavation, and over or near the dirt, gravel, or other material taken therefrom, and so kept from the beginning of twilight through the whole of every

night during all the time for which such excavation or obstruction exists.

SECT. 7. Whoever desires to occupy or use a portion of a street for the erection or repair of a building upon land abutting thereon shall make application to the inspector of buildings, who, subject to the consent of the superintendent of streets, may grant permits for the occupation or use, for building purposes, of such portions of streets, and for such periods of time, and under such limitations and restrictions, as may be required by ordinance or by the public convenience; and any such permit may be revoked by the said inspector at any time when the holder thereof fails to comply with any rule or regulation under which it was granted, or when, in the opinion of the said inspector, the public good requires such revocation. No part of a street other than that so allotted shall be used for depositing materials for work to be done or for receiving rubbish arising from such work, and all such rubbish shall be carried away, by the person or persons to whom the permit is granted, at such convenient times as the said superintendent of streets or the said inspector may direct; and, in case of the neglect or refusal of such person or persons so to remove such rubbish, it shall be removed at their expense by the superintendent of streets.

Permits for use of streets for building purposes.
R. O. pp. 76, 77.

SECT. 8. When a permit is granted under the preceding section the portion of a street thereby allotted shall be enclosed with a sufficient fence, which shall be maintained during the whole time for which the occupation of such portion of the street continues, and a lighted lantern or lanterns, or some other proper and sufficient lights, shall be fixed to some part or parts of such fence, or in some other proper manner, and such lanterns or lights shall be kept lighted from the beginning of twilight through the whole of every night during such occupation.

Fence and lights to be put up when streets are so used.
R. O. p. 77.

SECT. 9. Whoever maliciously or wantonly, and without legal cause, extinguishes or diminishes a light fixed in accordance with the provisions of section six or of section eight shall be liable to a penalty of not less than ten nor more than fifty dollars.

Penalty for extinguishing lights put up as provided in Sects. 6 and 8.
R. O. p. 77.

SECT. 10. Whoever violates any of the provisions of section seven or section eight shall be liable to a penalty of not less than two nor more than fifty dollars for each offence, and to a like penalty for every day's continuance of such offence.

Penalty for breaches of Sects. 7 and 8.
R. O. p. 77.

SECT. 11. No person shall, without a license from the board of aldermen, construct or maintain a cellar-door or cellar-door-way in a sidewalk, or projecting into a street, or construct an entrance or flight of steps descending immediately from a street into a cellar or into the basement story of a building for the purpose of being kept open as an

Cellar-doors, door-ways and steps regulated.
R. O. p. 77.

entrance, and all such cellar-doors, door-ways, and steps as may be licensed by said board shall be constructed in such manner as said board may direct.

Cellar-doors
not to remain
open unless, etc.
R. O. pp. 77, 78.

SECT. 12. No occupant or other person having the care of a building shall suffer a cellar-door, cellar-door-way, entrance, or flight of steps, such as are mentioned in the preceding section, to remain open, or the platform thereof to be removed, for more than fifteen minutes during the night-time, nor for more than two hours in all during the daytime, unless licensed so to do by the board of aldermen; and in all cases in which such a cellar-door, cellar-door-way, entrance, or flight of steps is open, the same shall be properly guarded, and, in the night-time, properly lighted.

Cellar-doors,
etc., to be kept
in repair, etc.
R. O. p. 78.

SECT. 13. When a cellar-door or the platform thereof projects into a street, the owners and occupants of the estate to which such cellar-door or platform belongs shall keep such door or platform in good repair; and if it is at any time out of repair, so that, in the opinion of the superintendent of streets, the safety of the inhabitants is thereby endangered, the said superintendent shall notify the said owners and occupants of the fact; and, if they neglect or refuse for the space of twenty-four hours to repair such door or platform, the said superintendent shall forthwith cause such repairs to be made at the expense of said owners or occupants, who shall, in case of such neglect or refusal, be further liable to a penalty of not less than one nor more than fifty dollars for each and every day that said door or platform continues to be out of repair.

penalty for
non-compliance.

Descending
steps, railings
around.
R. O. p. 78.

SECT. 14. Every entrance or flight of steps, descending immediately from or near the line of a street into a cellar or into the basement story of a building, where such entrance or flight of steps is not safely and securely covered, shall be enclosed with a permanent railing on each side, at least three feet high from the top of the sidewalk or pavement, together with either a gate to open inwardly or two iron chains across the front of the entrance-way, one near the top, and the other half-way from the ground to the top of the railing; and such gate or chains shall, unless there is a light burning over the steps to prevent accidents, be closed during the night.

Gratings in
streets regu-
lated.
R. O. p. 78.

SECT. 15. No person shall, without the permission of the board of aldermen, place or maintain a grating in a street, and no grating shall be placed in a sidewalk, the spaces between the bars of which are more than one inch and a quarter in width; and no grating shall project more than eighteen inches into a street.

Coal-hole cover-
ings, etc., regu-
lated.
R. O. pp. 78, 79.

SECT. 16. All coverings of coal-holes or of other excavations or openings in streets, excepting cellar-door-ways and bulk-heads, shall be constructed of iron and glass, North-river flagging-stone, or rough surface granite, and shall be of such description and workmanship as the board of aldermen may direct. When such a covering is otherwise constructed, or

is, in the opinion of the superintendent of streets, unsafe or inconvenient for the public travel, the superintendent of streets may order the same to be removed and a suitable one put in its place; and, if such removal and substitution are not completed within ten days from the service of the order on the owner or tenant of the premises or other person having the care thereof, the superintendent of streets shall make such change, and the expense thereof shall be paid by such owner, tenant, or other person having the care of the premises; and no person shall leave such coal-hole or other excavation or opening uncovered, or with its cover unfastened, except while it is in use in the daytime, before sunset, by some person or persons who are actually attending to the same.

SECT. 17. The board of aldermen may, upon application, authorize the construction, at the expense of the applicant, of coal-holes or other openings in streets, in such manner and under the direction of such person as they may deem suitable; and they may also authorize the continuance of a covering of a coal-hole or other excavation already constructed.

Coal-holes and other openings may be authorized.

R. O. p. 79.

SECT. 18. Whoever is duly licensed or permitted to occupy a part of a street, or while erecting, repairing a building, or making an excavation, or for any other purpose, shall provide a safe and convenient passage for public travel around or over the obstruction so caused, and shall be responsible to the city for all injuries sustained in consequence of his neglect so to do, and shall be liable to a penalty of not less than two nor more than fifty dollars for each day's continuance of such neglect; and he shall at any time, when requested by the superintendent of streets or by a police officer, exhibit his license or permit for such occupation.

Safe passage around obstructions in streets, to be provided, etc.

R. O. p. 79.

Penalty for neglect.

Projections into Streets.

SECT. 19. Whoever constructs or places, or causes to be constructed or placed, a portico, porch, door, window, or step projecting into a street, except in accordance with the provisions of the statutes of the commonwealth, shall be liable to a penalty of not less than four nor more than fifty dollars for each offence, and to a like penalty for each day that such portico, porch, door, window, or step is continued as aforesaid after notice to remove the same, given by the board of aldermen, or by some person authorized by said board to give such notice.

Projecting porches, windows, steps, etc., forbidden; penalty.

R. O. p. 79.

SECT. 20. No canopy, awning, shade, shade-frame, or shade-curtain shall be erected or placed within the limits of a street, unless permission therefor has been first obtained in writing from the superintendent of lamps, who may give such permits when, in his opinion, the public safety and con-

Awnings, shades, etc., regulated.

R. O. p. 79.

venience and the proper lighting of the streets will not thereby be interfered with; but all permits for shade-frames shall be limited to frames so constructed that they can be folded up against the buildings to which they are affixed. The board of aldermen may order the immediate removal of any canopy, awning, shade, shade-frame, or shade-curtain, erected or placed within the limits of a public street.

Penalty for
breach of pre-
ceding section.
R. O. p. 80.

SECT. 21. Whoever erects or maintains a canopy, awning, shade, shade-frame, or shade-curtain, contrary to the provisions of the preceding section, shall be liable to a penalty of two dollars for each and every day on which such canopy, awning, shade, shade-frame, or shade-curtain is so maintained.

Signs, show-
bills, etc., regu-
lated under pen-
alty.
R. O. p. 80.

SECT. 22. No person shall hang, affix, erect, or fasten a sign, show-bill, lantern, or show-board of any description whatsoever, so that the same will project more than one foot into or over a street, unless he first obtains permission from the board of aldermen therefor, which permission shall be subject to revocation by said board at pleasure; and whoever, without such permission, hangs, affixes, erects, or fastens as aforesaid a sign, show-bill, lantern, or show-board of any description whatsoever, and neglects after notice given by the mayor or by an aldermen or police officer to remove the same, shall be liable to a penalty of not less than five nor more than twenty dollars for every day that such sign, show-bill, lantern, or show-board remains after such notice.

Same subject.
R. O. p. 80.

SECT. 23. Whoever places or maintains a sign, show-bill, lantern, show-board, or other thing, which at its lowest part is less than nine feet above a sidewalk or street, and which projects more than six inches into a street, shall be liable to a penalty of not less than four nor more than fifty dollars for each offence, and to a like penalty for every day on which such sign, show-bill, lantern, show-board, or other thing is continued after an order to remove the same has been given by the board of aldermen, or by any person thereto authorized by said board.

Merchandise,
etc., not to be
suspended over
streets.
R. O. p. 80.

SECT. 24. No person shall place or cause to be placed, or suspend or cause to be suspended, over a street from a house, shop, store, lot, or place, any goods, wares, merchandise, or other thing, so that the same shall extend or project more than one foot into the street from the wall or front of such house, store, shop, lot, or place.

Laying Underground Telegraph and Telephone Wires.

Telegraph and
telephone wires
under ground,
regulations.
R. O. p. 80.

SECT. 25.¹ Telegraph and telephone companies, whether chartered by this or any other State, which own or control and use, under lease or otherwise, telegraph or telephone lines

¹ This section was amended by an ordinance approved March 24, 1886, so as to read as follows: "Telegraph, telephone, and electric light companies, whether chartered by this or any other State, may lay wires under the streets of the city, under the following regulations, and not otherwise."

wholly or in part within the city, may lay wires under the streets of the city under the following regulations, and not otherwise : —

SECT. 26. The surface of a street shall not be disturbed for the purpose of laying, repairing, or removing wires, or conduits therefor, without a permit from the board of aldermen, indicating the time, manner, and place of opening such street.

Surface of street not to be disturbed without permit, etc.
R. O. p. 80.

SECT. 27. When an opening is made in a street for any of the purposes aforesaid, such street shall be restored to a condition satisfactory to the superintendent of streets; and, if not so restored by said company, said superintendent may cause the same to be restored, the expense thereof to be borne by said company.

Street to be restored to a satisfactory condition.
R. O. pp. 80, 81.

SECT. 28. No company shall be required to admit the wires of another company into its conduits, or to place its wires in the conduits of another company.

Each company to control its own conduits.
R. O. p. 81.

SECT. 29.¹ No company shall excavate more than one longitudinal trench in the same portion of a street without the consent of the city council.

Number of excavations limited.
R. O. p. 81.

SECT. 30. No company, in laying, repairing, or removing its wires or conduits, shall disturb or in any way interfere with any gas or water pipes, or sewers, or pipes therewith connected.

Gas and water pipes, sewers, etc., not to be disturbed.
R. O. p. 81.

SECT. 31. No permit shall be granted, or if granted shall be valid, to disturb the surface of a street for any of the purposes aforesaid, until the company petitioning therefor has executed an agreement in a form satisfactory to the corporation counsel, providing, —

Agreement to be executed before permit is granted to open street.
R. O. p. 81.

*First.*² That said company shall provide in its conduits accommodations for all wires belonging to, used, or to be used by the city, free of charge.

conditions.
R. O. p. 81.

Second. That said company shall remove its conduits whenever directed so to do by the city council.

Third. That said company shall not remove its conduits without the consent of the city council.

Fourth. That said company will indemnify and save harmless the city against all damages, costs, and expenses whatsoever to which the city may be subjected in consequence of the acts or neglect of said company, its agents or servants, or in any manner arising from the rights or privileges granted it by the city.

SECT. 32. In addition to the aforesaid agreement, such company shall, before a street is disturbed for the laying of its wires or conduits, execute a bond, with surety or sureties in a penal sum of not less than twenty thousand dollars, conditioned to fulfil all its said agreements with the city and its

Bond to be given before street is disturbed, etc.
R. O. p. 81.

¹ This section was repealed by an ordinance approved March 24, 1886.

² This clause was amended by an ordinance approved March 24, 1886, so as to read as follows: "That said company shall provide in its conduits accommodations for all wires belonging to, used, or to be used, by the city, free of charge, whenever required so to do."

duties under this ordinance and ordinances in addition thereto and amendment thereof; and a new bond of like import may at any time be required of such company by the city council. Such new bond shall be a strengthening bond, unless the sureties on former bonds are expressly released from further liability by vote of the city council.

Use of Streets.

Moving of buildings in streets regulated; penalty.
R. O. pp. 81, 82.

SECT. 33. Whoever, without permission of the board of aldermen, obstructs a street by placing a building therein, or moves a building through or upon a street, and whoever aids and assists in so obstructing a street or moving a building, shall be liable to a penalty of not less than ten nor more than fifty dollars, and to a like penalty for every twelve hours that such obstruction may continue, or that such building may remain in or upon a street.

Lumber, merchandise, etc., not to be placed in streets under penalty, except, etc.
R. O. p. 82.

SECT. 34. Whoever places, or causes to be placed, in a street, or upon a sidewalk or foot-path, any lumber, iron, coal, trunk, bale, box, crate, cask, package, building material, rubbish, or article or thing whatsoever, and suffers the same to remain in such position for more than five minutes, shall be liable to a penalty of not less than three nor more than fifty dollars; and if he suffers such article so to remain for more than one hour after it was first placed there, or for more than ten minutes after notice to remove it has been given to him by the mayor or by an alderman or policeman, he shall, for each and every hour during which such article is suffered so to remain, be liable to a penalty of not less than five nor more than fifty dollars; but nothing contained in this section shall be deemed to extend to such goods, wares, or merchandise as may, in conformity with such rules and regulations as may be made by the board of aldermen, be placed in a street for the purpose of being sold at public auction.

Snow and ice thrown into streets to be broken up; penalty.
R. O. p. 82.

SECT. 35. Whoever lays, throws, or places ice or snow in a public street, or causes ice or snow to be so laid, thrown, or placed, without causing the same to be broken into small pieces and spread evenly on the surface of such street, shall be liable to a penalty of not less than two nor more than five dollars for such offence.

Coal and wood not to be allowed to remain in streets.
R. O. p. 82.

SECT. 36. Neither the purchaser nor the seller of coal or firewood shall place or permit such coal or firewood to remain in a street for more than thirty minutes after sunset in the evening; nor shall a greater quantity than two loads of coal or firewood be permitted in any case to remain in a street, either by the purchaser or the seller, or by any other person having the charge thereof; nor shall a purchaser or seller, or other person as aforesaid, permit such coal or firewood at any time, by day or night, to remain in a street so as to obstruct the passage in the same, nor for more than two hours in any case.

SECT. 37. Whoever, having the care or use of a horse or other beast of burthen, carriage, or draught, rides, drives, or permits such horse or other beast to go at a greater rate of speed than seven miles an hour in a public street, except in wards twenty-two, twenty-three, twenty-four, and twenty-five, and in that part of ward fifteen which lies south of Swett street, or in a public street in said excepted portion of the city, at a greater rate of speed than twelve miles an hour, shall be liable to a penalty of not less than five nor more than fifty dollars.

Fast-driving prohibited, except, etc.; penalty.
R. O. p. 82.

SECT. 38. No vehicle the width of which, including its load, exceeds ten feet, shall be allowed to pass through the streets of the city except by the written permission of the inspector of wagon licenses; and whoever violates the provisions of this section shall be liable to a penalty of not less than ten nor more than twenty dollars for each offence.

Vehicles over ten feet wide prohibited; penalty.
R. O. pp. 82, 83.

SECT. 39. No person shall drive sheep, swine, or neat cattle through or over a public street or bridge without written permission from the board of aldermen, or from the board of police, except in wards twenty-three, twenty-four, and twenty-five.

Driving cattle, etc., forbidden, except, etc.
R. O. p. 83.

SECT. 40. No person having charge of a horse, cow, swine, or other grazing animal, shall bait or feed the same in a public street, or permit the same to go at large therein.

Grazing animals, feeding or going at large, forbidden.
R. O. p. 83.

SECT. 41. The owners and occupants of stables shall not wash or clean carriages or horses in the streets, or cause them to be there washed or cleaned, nor shall they otherwise encumber the streets.

Carriages and horses not to be cleaned in streets, etc.
R. O. p. 83.

SECT. 42. No person shall water a public street with a watering-cart, unless he first obtains a license therefor from the board of aldermen, which license shall not run for more than one year, and shall contain such conditions and be subject to such regulations as the said board may prescribe.

Watering streets without license forbidden.
R. O. p. 83.

SECT. 43. No person shall, unless duly licensed by the board of aldermen, ring a bell, or cause a bell to be rung, in a public street for the purpose of giving notice of the exercise of a business or calling, or for the sale of an article; and no person shall use, or cause to be used, in a public street, for said purpose, a horn or other noise-making instrument.

Ringling bells or blowing horns in streets to give notice of business forbidden.
R. O. p. 83.

SECT. 44. No person shall, unless duly licensed by the board of aldermen, stand in a street for the purpose of grinding cutlery, or for the sale of any article, or for the exercise of any business or calling.

Grinding cutlery or selling goods to be licensed.
R. O. p. 83.

SECT. 45. No person shall expose in a street or public square, or on the common, a table or device of any kind intended for playing a game of hazard or chance; and no person shall play at such table or device, or at an unlawful game, in a street or public square, or on the common.

Gaming or exposing gaming devices forbidden.
R. O. p. 83.

SECT. 46. No person shall play at ball, or throw stones, or snowballs, or other missiles in a public street; or throw

also playing ball, throwing stones, etc.
R. O. p. 83.

stones or other missiles on the common or public garden, or in any of the public squares.

also using bow
and arrow.
R. O. p. 83.

SECT. 47. No person shall shoot with or use a bow and arrow in a street or public square, or on the common.

also coasting,
except, etc.
R. O. p. 83.

SECT. 48. No person shall course or coast in a street upon a sled, except by permission of the board of aldermen.

also using ob-
scene language.
R. O. p. 83.

SECT. 49. No person shall accost or address another person with obscene language upon a street or sidewalk, or in a public place.

also bathing in
view of specta-
tors.
R. O. p. 83.

SECT. 50. No person shall swim or bathe in the waters surrounding the city adjacent to any of the wharves, bridges, avenues, or railroads leading into the same, so as to be exposed to the view of the spectators.

also removing
street dirt or
manure without
license.
R. O. p. 84.

SECT. 51. No person shall, without a license from the board of aldermen, take or remove street dirt or manure collected from a street.

also climbing,
tying horses to,
or posting bills
on trees.
R. O. p. 84.

SECT. 52. No person shall climb a tree in a public street, or tie a horse or other animal to, or post a bill upon, any such tree.

also cleaning
carpets.
R. O. p. 84.

SECT. 53. No person shall shake or otherwise clean a carpet in a public street.

Sidewalks.

Sidewalks, al-
dermen may reg-
ulate width and
height and ac-
cept when built.
R. O. p. 84.

SECT. 54. The board of aldermen, acting as surveyors of highways, may regulate the width and height of the sidewalks of a street in such manner as may, in their judgment, be most conducive to the convenience and benefit of the city; and they may accept a sidewalk, after it has been put in good and perfect repair by the abutters, and relinquished by them in writing to the city.

accepted, main-
tenance of, etc.
R. O. p. 84.

SECT. 55. Any such sidewalk shall, after such relinquishment and acceptance, be maintained at the expense of the city; except that when a sidewalk requires repairs in consequence of a defect in a cellar-door, curb, step, cellar-window, coal-hole, cellar-wall, or from any other cause within the control of the owner or occupant of the estate to which such sidewalk adjoins, such repairs shall be made at the expense of such owner or occupant.

record to be
kept of.
R. O. p. 84.

SECT. 56. The city clerk shall keep a book, in which the names of the streets shall be alphabetically arranged, and in which every sidewalk, which has been accepted as aforesaid, shall be entered, with the date of such acceptance, the length and width of the sidewalk, and the names of the owners of the estate to which it belongs and of the adjoining estates.

vehicles and
horses pro-
hibited on.
R. O. p. 84.

SECT. 57. No person shall drive, wheel, or draw upon a sidewalk or footpath a coach, cart, handcart, hand-barrow, or other carriage of burden or pleasure, except children's carriages, containing children only and drawn by hand, nor shall any person drive or permit a horse under his care to go or stand upon a sidewalk or footway.

SECT. 58. No person shall, without authority from the board of aldermen, place or carry, or cause to be placed or carried, on a sidewalk, a show-board, placard, or sign for the purpose of there displaying or attracting attention to the same.

also show-boards, placards, etc.
R. O. p. 84.

SECT. 59. No person shall saw firewood or place the same upon a sidewalk, nor stand upon a sidewalk with his wood-saw or horse.

also firewood, saw-horses, etc.
R. O. p. 84.

SECT. 60. No person shall insert a sign in a sidewalk without the permission of the board of aldermen, or of some person thereto authorized by them.

signs not to be inserted in, except, etc.
R. O. p. 84.

SECT. 61. Whoever remains for a longer time than twenty minutes upon a sidewalk in such a manner as to obstruct the free passage of foot travellers shall be liable to a penalty of not less than three nor more than fifty dollars; and whoever remains on a sidewalk in said manner for more than five minutes after being requested by a police officer to move on shall be liable to a like penalty.

remaining on so as to obstruct travel, forbidden; penalty.
R. O. pp. 84, 85.

SECT. 62. The tenant, or occupant, or any person having the care of a building or lot of land bordering on a street where there is a sidewalk or footway, or if there is no tenant, occupant, or other person having the care of the whole of such building or lot, the owner thereof, shall, within one hour after snow ceases to fall in the daytime, and before nine o'clock on the morning after a fall of snow during the night, cause all snow that may be on such sidewalk or footway to be removed therefrom; and, if he fails so to do, he shall be liable to a penalty of not less than two nor more than ten dollars; and for each and every hour thereafter during which such snow remains on such sidewalk or footway he shall be liable to a further penalty of not less than one nor more than ten dollars. The provisions of this section shall apply to snow which falls from buildings as well as to that which falls from the clouds.

removal of snow from required; penalty.
R. O. p. 85.

SECT. 63. When any portion of a sidewalk is encumbered with ice, the occupant of the building or lot of land adjoining such sidewalk, or, in case there is no occupant of the whole of such building or lot, the owner or other person having the care of the same, shall cause such sidewalk to be made safe and convenient by removing the ice therefrom, or by keeping the same covered with sand or some other suitable substance; and if such occupant, owner, or other person neglects so to do for the space of six hours during the daytime, he shall be liable to a penalty of not less than two nor more than five dollars, and to a like penalty for each and every succeeding day during which such sidewalk continues to be so encumbered.

encumbered with ice to be made safe; penalty.
R. O. p. 85.

SECT. 64. When a tenement-house or other building is used or occupied by more than one tenant, the owner or person having the care of such house or building shall cause the

Owners of tenement-houses to keep sidewalks

clear of ice and
snow; penalty.
R. O. p. 85.

snow and ice to be removed from the sidewalk or footway adjoining such house or building, in the manner provided in the two preceding sections, and in default thereof shall be liable to the same penalties as are therein provided.

Powers of Surveyors of Highways.

Rights and
duties of mayor
as surveyor of
highways not
limited by this
chapter.
R. O. p. 85.

SECT. 65. The provisions of this chapter shall not be taken or construed as limiting in any manner the legal rights and duties of the mayor acting as surveyor of highways, to order such alterations and repairs in streets as he may deem that the safety and convenience of the inhabitants require.

NOTES.

SECT. 1. Authority to designate names for streets laid out over private lands was given by St. 1868, c. 199, § 1. See also St. 1880, c. 67 and St. 1884, c. 278. The power of laying out, altering, and discontinuing streets, lanes, alleys, and footways is vested in the board of street commissioners, subject in some respects to the action of the city council. St. 1870, c. 337; St. 1872, c. 322; St. 1878, c. 75; P. S. c. 49, §§ 83-5. As to the establishment of highways by prescription, see *McKenna v. Boston*, 131 Mass. 143. The power of determining the character of the surface and pavement and changes of grade of the streets is vested in the board of aldermen as surveyors of highways, § 41 of the city charter, St. 1799, c. 31; St. 1831, c. 17. The executive work of the paving and repairs of the streets is transferred from the board of aldermen to the mayor and the appropriate officer under him by St. 1885, c. 266, § 6. Footways may be laid out by the street commissioners across railroads under P. S. c. 112, § 125. *Boston & Albany Railroad v. Boston*, 140 Mass. 87. As to the liability of the city for injuries caused by defects in streets, see P. S. c. 52, §§ 17-21; in public footways by prescription, see *Gould v. Boston*, 120 Mass. 300; *Hemphill v. Boston*, 8 Cush. 195; in highways by prescription, see *McKenna v. Boston*, 131 Mass. 143.

SECT. 5. The statutes provide a penalty for digging up a street without permission for the laying, etc., of a drain or sewer. P. S. c. 50, § 12.

The charters of the various gas-light companies give them a right to dig up streets for the purpose of laying or repairing their pipes, subject to the control of the mayor and aldermen. See St. 1882, c. 41, § 3. (*Boston Gas Light Co.*) St. 1846, c. 98, § 3. (*Charlestown Gas Light Co.*) St. 1852, c. 103, § 3, and St. 1853, c. 320, § 2. (*South Boston Gas Light Co.*) St. 1852, c. 198, § 3. (*Roxbury Gas Light Co.*) St. 1853, c. 13, § 3. (*East Boston Gas Light Co.*) St. 1853, c. 29, § 4. (*Brighton Gas Light Co.*) St. 1853, c. 63, § 3. (*Jamaica Plain Gas Light Co.*) St. 1854, c. 9, § 3. (*Dorchester Gas Light Co.*)

For regulations established by the board of aldermen on the subject of coal-holes and vaults under sidewalks, see *Rev. Reg. of Aldermen*, c. 6.

SECT. 6. As to the obligation of the city to see that fences are put around excavations for sewers, etc., see *Prentiss v. Boston*, 112 Mass. 43, 48; — *Doherty v. Waltham*, 4 Gray, 596. This ordinance does not increase the liability of the city for injuries caused by a defect in the highway. *Lyon v. Cambridge*, 136 Mass. 419. (See also *Fallon v. Boston*, 3 All. 38.)

SECT. 11. Cellar-doors in Boston are partially regulated by St. 1799, c. 31, § 4.

As to the liability of the city for damages caused by falling into such

openings, see *Bacon v. Boston*, 3 Cush., 174, 180, and *Harriman v. Boston*, 114 Mass. 241.

SECT. 17. As to city's liability for damages caused by falling into a coal-hole, see *Hanscom v. Boston*, not yet reported.

SECT. 19. The construction of bow-windows and other projections from buildings into streets is now controlled mainly by St. 1885, c. 374, § 27. St. 1882 c. 252, § 3 is repealed by St. 1885, c. 374, § 147. The earlier provisions of St. 1799, c. 31, § 5, are apparently now obsolete. A general statute provision relative to this subject is to be found in P. S. c. 28, § 24.

An ordinance similar to this section was held to be valid in *Commonwealth v. Goodnow*, 117 Mass. 114. But as to its validity under P. S. c. 28, § 24, so far as concerns porticos, porches, or steps, see *Cushing v. Boston*, 128 Mass. 330; also S. c. 122 Mass. 172, and 124 Mass. 434. Violation of an ordinance like this section does not confer a right of action upon an individual. *Jenks v. Williams*, 115 Mass. 217.

SECT. 20. Ordinances similar to this section have been held to be valid in *Pedrick v. Bailey*, 12 Gray, 161, and in *Heald v. Lang*, 98 Mass. 581. As to the city's liability for injuries caused by the fall of awnings, see *Drake v. Lowell*, 13 Met. 292; *Day v. Milford* 5 All. 98.

SECT. 22. As to the liability of the city for injuries caused by the fall of overhanging signs, etc., see *Jones v. Boston*, 104 Mass. 75; *West v. Lynn*, 110 Mass. 514, 518.

SECT. 24. See also, on the subject of this section, St. 1816, c. 90, § 4.

SECTS. 25-32, inclusive, authorized by P. S. c. 27, § 47, and c. 28, § 4. See also, P. S. c. 109, §§ 3, 4, 5, as to powers of board of aldermen. Appropriating highway for use of telegraph above ground is not an additional servitude for which compensation can be recovered by the owner of the fee. *Pierce v. Drew*, 136 Mass. 75. Whether same is true of underground wires, *quære*.

SECT. 33. See also, on the subject of this section, P. S. c. 53, § 17, *Rev. Reg. of Aldermen*, c. 5, and *Day v. Green*, 4 Cush. 433, 437.

If a building is moved through the streets without a permit, it seems that such building may be treated as a public nuisance. See *Pike v. Brimmer*, 9 Law Reporter, 221.

SECT. 34. A statute provision somewhat similar to this section is to be found in St. 1799, c. 31, § 6.

SECT. 37. Ordinances against fast-driving are specially authorized by P. S. c. 53, § 13. See also P. S. c. 28, § 25; P. S. c. 53, § 15. See *Commonwealth v. Worcester*, 3 Pick. 462. An ordinance prohibiting driving at an "immoderate" gait is not valid; an ordinance in order to be valid under P. S. c. 53, § 13, must definitely determine the rate of speed which shall be illegal, and not leave it open to an inquiry into the circumstances of each case. *Commonwealth v. Roy*, 140 Mass. 432, 433. Negligently running over another, while driving in violation of this ordinance, does not constitute a criminal assault and battery. *Commonwealth v. Adams*, 114 Mass. 323. In a civil action, violation of this ordinance is *prima facie* evidence on the issue of negligence, but is not conclusive. *Hall v. Ripley*, 119 Mass. 135; *Hanlon v. South Boston Horse Railroad Co.*, 129 Mass. 310. In an action for injuries occasioned by a defective highway, the burden of proof is on the plaintiff, upon the issue of due care, to show that he was not violating this ordinance. *Tuttle v. Lawrence*, 119 Mass. 276. See also *Heland v. Lowell*, 3 All. 407. See also *Damon v. Scituate*, 119 Mass. 66.

SECT. 38. This ordinance is specially authorized by St. 1880, c. 134.

SECT. 39. This ordinance is specially authorized by P. S. c. 53, § 11.

SECT. 40. Cities are authorized by statute to make ordinances, with penalties not exceeding twenty dollars, to prevent the pasturing of cattle in the streets. P. S. c. 53, § 10. See *Commonwealth v. Curtis*, 9 All. 266. "We should not deem a by-law unreasonable which should in terms wholly prohibit the driving of a herd of swine through the streets of a compact city." *Metcalf, J.*, in *Commonwealth v. Curtis*, 9 All. 266, 271.

SECT. 43. It is provided by statute that the mayor and aldermen may make regulations concerning blowing horns, beating drums, etc., in the streets. P. S. c. 53, § 16.

SECT. 44. As to what constitutes "standing in a street" within the meaning of this section, see *Commonwealth v. Elliot*, 121 Mass. 467.

SECT. 48. It is provided by statute that the mayor and board of aldermen may make regulations concerning coasting in the streets. P. S. c. 53, §§ 15, 16.

The city is not liable for injuries caused by boys coasting in the streets in violation of this ordinance. *Pierce v. New Bedford*, 129 Mass. 534.

SECT. 49. Persons violating this ordinance may be arrested without a warrant, etc. P. S. c. 207, § 35.

SECT. 54. The statute provisions relative to the making of sidewalks and assessing the expense upon abutters are to be found in St. 1799, c. 31, §§ 1, 2. St. 1833, c. 128. P. S. c. 50, §§ 20-25. (Of the statutes referred to in these sections of the Public Statutes, St. 1872, c. 302, was accepted by the city council May 4, 1872, but the other statutes referred to have not been so accepted.) P. S. c. 53, § 6. (Construction of sidewalks by individuals.)

SECT. 61. Persons violating this ordinance may be arrested without a warrant, etc. P. S. c. 207, § 35.

SECT. 62. Ordinances regarding the removal of snow and ice from sidewalks are authorized by P. S. c. 53, § 7.

The constitutionality of such ordinances was considered and upheld in *Goddard, Petitioner*, 16 Pick. 504, 508.

Such ordinances do not have the effect of making parties who fail to comply with them liable for injuries arising from the condition of the snow or ice on their sidewalks. *Kirby v. Boylston Market Association*, 14 Gray, 249, 252. Nor do they excuse the city from its duty to clear the sidewalks, nor exempt it from liability for defects therein. *Hayes v. Cambridge*, 138 Mass. 461.

The words "having the care of the whole of such building or lot" were probably inserted in the ordinance by reason of the decision in *Commonwealth v. Watson*, 97 Mass. 562.

SECT. 65. The board of aldermen were made surveyors of highways by section 41 of the city charter. St. 1885, c. 266, § 6 takes from them so much of their power as surveyors of highways as is executive in its character and transfers it to the mayor. (See *post*. c. 29, § 1, note.) There remains to them such of their powers in that capacity as are *quasi* judicial or ministerial. (See St. 1799, c. 31; St. 1831, c. 1.) By St. 1877, c. 228, § 1, the city council is authorized, upon acceptance of the act (§ 4), to confer upon the board of street commissioners any powers now vested in the board of aldermen as surveyors of highways. The act has not yet been accepted by the city council.

By St. 1877, c. 228, § 1, the city council is authorized, upon acceptance of the act (§ 4), to confer upon the board of street commissioners any powers now vested in the board of aldermen as surveyors of highways. The act has not yet been accepted by the city council.

CHAPTER 29.

OF THE SUPERINTENDENT OF STREETS.

Section.	Section.
1. Appointment, general powers and duties.	5. Defects in streets, notices and repairs of.
2. Subordinates.	6. To notify other departments of proposed opening or construction of streets.
3. Further duties; quarterly and annual reports.	
4. Pay-rolls of laborers to be made by, etc.	

SECTION 1. There shall be annually appointed by the Mayor, subject to confirmation by the board of aldermen, a Superintendent of streets, who shall keep the public ways of the city in proper condition for travel, and make the necessary repairs thereon, subject, however, to the provisions of chapter eighteen of these ordinances. He shall also have charge of the construction of new streets, and the reconstruction or widening of established streets, as also of all sidewalks, gutters, plank-walks, fences, and other appurtenances to the roadway, and the locating of catch-basins in the public streets. But in no case shall he exceed the appropriation for any specific work or class of work, nor, until empowered to do so by vote of the board of aldermen, proceed to construct any public way.

Appointment,
and general
powers and du-
ties.
R. O. p. 74.

SECT. 2. There shall be allowed to the superintendent for the discharge of his duties the following subordinates: —

Subordinates.
R. O. p. 75.

One deputy superintendent,
One accountant and book-keeper,
Three office clerks,
One foreman for each district, not exceeding ten in all,
Twenty-six sub-foremen.

SECT. 3. The said superintendent shall attend at his office during a portion of each day; shall keep a record of all his proceedings, and a set of books, in which shall be entered under appropriate heads the receipts and expenditures in his department, with the names of all persons who have furnished materials and of all workmen who have been employed, and of the amount paid to each; and shall make to the city council a quarterly report of the facts so recorded and entered, except the names of the laborers. Such reports shall specify the work done on each street or locality separately, and shall contain abstracts of all contracts for supplies of materials

Superintendent,
further duties.

quarterly and
annual reports.
R. O. pp. 74, 75.

made since the previous report. He shall also make annually, on or before the tenth day of January, a report to the city council, containing a general statement of the expenses of his department during the preceding year, and of the amount expended on the various streets, an estimate in detail of the property in his charge belonging to the city, and such other information as he may consider desirable.

pay-rolls of
laborers to be
made by, etc.
R. O. p. 75.

SECT. 4. The pay-rolls of all laborers employed under the direction of the said superintendent shall be made up and certified by him in accordance with section five of chapter fourteen of these ordinances.

Defects in
streets, notices
and repairs of.
R. O. p. 75.

SECT. 5. All notices of defects in public streets, which are received by any officer or person in the employ of the city, shall be sent to the office of the superintendent of streets, who shall make a record of the same, with the name of the person making the report, and the time when the report was made, in a book kept for the purpose; and he, or some competent person detailed by him, shall, without delay, examine the locality of the alleged defect, and if upon examination it appears that the defect is of such a character as to endanger the safety of public travel, and that the city is liable for its repair, he shall cause it to be immediately repaired; and, until such repair is completed, he shall do whatever may be necessary to protect the public from injury by reason of the defect.

Superintendent
to notify other
departments of
proposed open-
ing or construc-
tion of streets.

SECT. 6. Whenever the superintendent of streets is about to construct a new street, or to break up the surface of any public way, he shall, at least two weeks before beginning work, notify the superintendent of sewers, the superintendent of lamps, and the water board. If either of these departments has any work to be done in the street or way so designated, it shall consult and arrange with the said superintendent of streets, in order that such work may be done before the surface of such street or way is again prepared for and opened to public travel. After such notice and opportunity have been given, neither of the said three departments of sewers, lamps, or water shall, for the space of six months, break up said street or way within the area of such previous disturbance, except in case of obvious necessity, to be certified to and approved by the mayor.

NOTES.

The office of superintendent of streets is created by ordinance under § 38, of the charter, and is not mentioned in any statute. The manner of his appointment and removal, and of the appointment and removal of his subordinates, is determined by St. 1885, c. 266, §§ 1, 5. The duties of his office as set forth in the ordinance are, in general, the executive duties of surveyors of highways (See *Barney v. Lowell*, 98 Mass. 570, 571-2), which, by St. 1885, c. 266, § 6, are vested in the mayor to be exercised through the appropriate officer. As to

er any part of those duties has been assigned to the superintendent, common, in reference to trees in the highway, see *McCarthy v. City of Boston*, 135 Mass. 197, and note on c. 42, § 2, post.

A city is not liable in damages for the negligence of a laborer employed by an officer having the power of a surveyor of highways. *Att v. Swampscott*, 1 All. 101; *Barney v. Lowell*, 98 Mass. 570; generally for the acts of the superintendent of streets. *Manners v. Hill*, 135 Mass. 165, 171. As to the personal liability of a surveyor of highways for his official acts, see *Johnson v. Dunn*, 134 Mass. 522.

A full summary of the cases on the subject of the city's liability for the acts of its officers, see *Hill v. Boston*, 122 Mass. 344, and *Att v. Salem*, 137 Mass. 171.

T. 2. See St. 1885, c. 266, § 5.

T. 5. As to what constitutes a valid notice under P. S. c. 52, § 21, of injuries received by reason of a defect in a highway see the following cases in which the notice given was held invalid: *Larkin v. City of Boston*, 128 Mass. 521; *Kenady v. Lawrence*, 128 Mass. 318; *McNulty v. Cambridge*, 130 Mass. 275; *Miles v. Lynn*, Id. 398; *Mooney v. City of Boston*, Id. 402; *Donnelly v. Fall River*, Id. 115; *Noonan v. Lawrence*, Id. 11; *Shea v. Lowell*, 132 Mass. 187; *Cronin v. Boston*, 135 Mass. 136; *Shallow v. Salem*, 136 Mass. 136; *Dalton v. Salem*, 139 Mass. 91; *Att v. Freetown*, 139 Mass. 235; *Roberts v. Douglas*, 140 Mass. 140; and the following, in which it was held valid: *Harris v. Newbury*, 135 Mass. 321; *Taylor v. Woburn*, 130 Mass. 494; *Donnelly v. Fall River*, 132 Mass. 299; *Savory v. Haverhill*, Id. 324; *Welch v. Gardner*, 135 Mass. 529; *Lowe v. Clinton*, Id. 526; *Aston v. Newton*, 134 Mass. 134; *McCabe v. Cambridge*, Id. 484; *Dalton v. Salem*, 136 Mass. 278; *Att v. Hampshire*, 138 Mass. 74; *Sargent v. Lynn*, 138 Mass. 599; *Att v. Worcester*, 140 Mass. 227; *Davis v. Charlton*, Id. 422.

A notice is a condition precedent to the right to maintain an action against the city, and cannot be waived by the city. *Gay v. Cambridge*, 135 Mass. 387; *Madden v. Springfield*, 131 Mass. 441.

A variance between notice and proof, see *McDougall v. Boston*, 134 Mass. 149.

CHAPTER 30.

OF THE BOSTON WATER BOARD.

Section.

1. Appointment and terms of office.
2. General powers.
3. Subordinates.
4. Power to sell or lease property.
5. Accounts and contracts of Mystic water-works.
6. Contracts or purchases estimated to exceed \$10,000, how made.
7. Members of board and subordinates not to be interested in contracts, etc.
8. Pay-rolls, how made up, etc.
9. Annual report.
10. Meters, provisions concerning use of.
11. Restrictions on supplying water in unaccepted streets.

Section.

12. Water not to be sold to parties outside of city, except.
13. Annual rates, when payable.
14. Proceedings when water-rates are overdue.
15. Regulations relative to use of water.
16. Defective pipes or waste of water, proceedings and penalty.
17. Use of hose in stables, restricted, etc.; penalty.
18. Reservoirs, injuring or draining water prohibited; penalty.
19. Reservoirs or pipes, opening and turning water on or off prohibited; penalty.
20. Hydrants, opening prohibited; penalty.

Appointment
and terms of
office.

R. O. p. 88.

SECTION 1. There shall be a board, to be known as the Boston Water Board, and to consist of three members, one of whom shall be appointed annually by the mayor, subject to confirmation by the board of aldermen, who shall hold office for three years from the first Monday in May in the year of his appointment. The clerk of said board shall not be a member thereof.

General powers.

R. O. p. 89.

SECT. 2. The said board shall have and exercise all the powers, so far as such powers can be legally delegated by the city council, which were granted to the city by, or are held by, the city under chapter one hundred and sixty-seven of the statutes of the commonwealth of the year eighteen hundred and forty-six, chapter one hundred and seventy-seven of the said statutes of the year eighteen hundred and seventy-two, chapter one hundred and five of the said statutes of the year eighteen hundred and sixty-one, and by or under any and all statutes in addition to either of the before-named chapters, subject, however, to the authority of the city council from time to time, by ordinances, orders, or resolutions, to instruct said board and to change and limit their powers.

Subordinates.

R. O. p. 89.

SECT. 3. There shall be allowed to the said water board as subordinates the following officers :—

One clerk of the board,
One assistant clerk,
One executive clerk,
One superintendent and one assistant superintendent
for each of the three divisions, viz., the Eastern,
Western, and Mystic divisions.

SECT. 4. The said board may, subject to the approval of the mayor, sell or lease such of the property connected with the water-works, or with the Mystic-valley sewer, as they deem expedient, and all necessary deeds and leases shall be executed by the mayor and countersigned by the chairman of said board.

Power to sell or
lease property.
R. O. p. 89.

SECT. 5. The account of the revenue and expenses of the Mystic water-works shall be kept separate and distinct from the other accounts of the water department; and the excess, if any, of such revenue over such expenses, including interest on debts incurred on account of said work, shall be paid to the sinking-fund commissioners for the redemption of any bonds given to secure such debts. All existing contracts for the supply of water from said works to other cities and towns shall continue in force, and shall not be modified or annulled except by an order of said board, approved by the city council.

Accounts and
contracts of
Mystic water-
works.
R. O. p. 89.

SECT. 6. No contract or purchase which is estimated to involve an expenditure of more than ten thousand dollars, except a contract for the laying of pipe, shall be made by the said board, until they have advertised, as hereinafter provided, for sealed proposals therefor. When advertisements for such proposals are made, plans and specifications of the work to be done, and schedules of the materials or supplies to be furnished, shall be placed on file in such office as may be designated by said board, and shall at all times during office hours be open to public inspection. The advertisement shall in all cases be inserted not less than five times in each of three newspapers published in the city, and it may be inserted also, if said board deem it expedient, in newspapers of other cities or towns, and the last publication shall be at least one week before the time fixed for opening the proposals. Each proposal shall conform to the specifications and requirements of the advertisement, shall be enclosed in a sealed envelope directed to said board, and shall be accompanied by a bond to the city, with sufficient sureties, in such sum, not less than five hundred dollars, as said board may specify in their advertisement, and conditioned to be void if the party making the proposal shall, in case of the acceptance of his bid, sign and deliver to said board, within the time required in their advertisement, a contract for the performance of the subject-matter of his proposal, and if he shall also, at the time of the delivery of such contract, give a further bond, with satisfactory sureties, for the performance of such contract. But, instead of the before-mentioned bond to accompany a proposal, a deposit of money or other collateral, satisfactory to said board, may be made as security for the signing and delivery of the contract and of the bond for the performance thereof. For the performance of the contract a bond with sureties shall in all cases be required

Contracts or
purchases esti-
mated to exceed
\$10,000, how
made.
R. O. pp. 89, 90.

when the contract is signed and delivered. All proposals shall be publicly opened at the hour and place designated in the advertisement, and the said board may reject any or all bids which are offered, and it shall be their duty to reject the bids of irresponsible parties.

Members of
board, etc., not
to be interested
in contracts, etc.
R. O. p. 90.

SECT. 7. No member of the said board, and no person appointed to office or employed by virtue of this chapter, shall, except by express vote of the city council, be interested, directly or indirectly, in any contract, bargain, sale, or agreement, in relation to the water-works or to any matter or thing connected therewith, wherein the city is interested, and any and all contracts, bargains, sales, or agreements made in violation of this section shall be utterly void as to the city.

Pay-rolls, how
made up, etc.
R. O. p. 90.

SECT. 8. The pay-rolls of the clerks, inspectors, and laborers in the water department shall be made up under the direction of the said board, and certified by their chairman.

Annual report.
R. O. p. 90.

SECT. 9. The said board shall annually, in January, present to the city council a report made up to and including the last day of the preceding year, and containing a full and comprehensive statement of their acts during the preceding year and of the condition of the water-works at the time of the report, together with such other information or suggestions as they may deem proper; and they shall, at the same time, transmit to the city council reports from the city engineer and the water-registrar.

Meters, provi-
sions concerning
use of.
R. O. p. 91.

SECT. 10. The said board shall in any case have power to ascertain by meters the quantity of water used; and the proprietors or occupants of any hotel, tavern, boarding-house, or other establishment using large quantities of water, shall also have authority to place within their premises, at their own expense, a sufficient water meter, to be approved by the water-registrar, for the purpose of measuring the quantity of water used by them. The charge for the use of water when measured by meter shall be made out quarterly by the water-registrar; and all bills for such use shall be paid within ten days after they are presented for payment, or the water-registrar shall, after a summons and notice as provided in section fourteen, cut off the supply.

Restrictions on
supplying water
in unaccepted
streets.
R. O. pp. 91, 92.

SECT. 11. When application is made to the said board, by parties who have built, or who intend to build, upon an unaccepted street, for an extension of the water-pipes in such street, or for the use of water from pipes already laid, the said board shall refuse such application, unless, upon an examination of the premises by the city engineer, it is found that the street is properly graded at a level of at least eighteen feet above mean low water, and that the cellars and yards are filled, with material satisfactory to said board, to a level of at least twelve feet above mean low water.

SECT. 12. The water furnished by the city shall not be sold or delivered to parties out of the limits of the city, unless by special vote of the said board.

Water not to be sold to parties out of city, except.
R. O. p. 92.

SECT. 13. The annual rates for the use of water shall be payable to the city collector, in advance, on the first day of January in each year, and all charges for specific supplies, or for fractional parts of a year, shall be payable before the water is let on.

Annual rates, when payable.
R. O. p. 92.

SECT. 14. In every case of the non-payment of a water-rate for sixty days after it is due, the city collector shall serve a summons at the premises for which such rate is due, and unless said rate is paid within three days thereafter, together with twenty-five cents for said summons, the said registrar shall be notified by the city collector and shall cause the supply to be cut off from said premises; and it shall not be let on again until the amount due, together with twenty-five cents for the summons and two dollars for the shutting off and letting on, is paid; but, in case of a change in the occupants of such premises, the water may be turned on without the payment of the amount due from an occupant who has left. In cases of specific supplies, or when the water has been let on for a fractional part of a year, the summons may be served and the water cut off immediately. The foregoing provisions shall apply when two or more parties take water through the same service-pipe, although one or more may have paid the proportion due from him or them.

Proceedings when water-rates are over-due.
R. O. p. 92.

SECT. 15. The following regulations shall be printed on every bill for a water-rate, and shall be considered a part of the contract with every person who takes water furnished by the city, and every such person shall be considered, by taking such water, to express his assent to be bound by said regulations, and when any one of them is violated, the water shall be cut off from the building or place where such violation occurred, although two or more parties may receive the water through the same pipe, and it shall not be let on again except by the order of the said board and on the payment of two dollars; and in case of any such violation the said board shall have the right to declare any payment for water made by the person committing such violation to be forfeited.

Regulations relative to use of water.
R. O. pp. 92, 93.
Ord. 1884, ch. 16.

The said regulations are as follows:—

1. All persons taking the water shall, at their own expense, keep the service-pipes within their premises, including any area beneath the sidewalk, in good repair and protected from frost, and shall be liable for all damages which result from their failure so to do.

takers to keep service-pipes in repair, etc.

2. They shall prevent all unnecessary waste of water, and shall not conceal the purposes for which it is used.

to prevent waste, etc.

3. No alteration in the pipes or fixtures inserted by the city shall be made except by persons authorized by the Boston water board, and the water registrar and persons so

pipes, etc., inserted by city not to be altered except, etc.

premises may
be entered to ex-
amine, etc.

water not to be
supplied to other
parties.

use of hand-
hose restricted.

pipes and fix-
tures to be ap-
proved.

Defective pipes
or waste of wa-
ter, proceedings
and penalty.
R. O. p. 93.

Use of hose in
stables restrict-
ed, etc.; penalty.
R. O. pp. 93, 94.
Ord. 1884, ch. 3
and 21.

authorized shall be allowed to enter the premises supplied for the purpose of examining the apparatus, the quantity of water used, and the manner of its use, and of ascertaining whether there is unnecessary waste.

4. No water shall, unless by special permission, be supplied to parties not entitled to the use of it under the city ordinances.

5. The use of hand-hose shall be restricted to such hours as the water board may order.

6. All distributing pipes and water-fixtures introduced into the premises of a water-taker shall be subject to the approval of the Boston water board or of their duly appointed agents; and no change affecting the flow of the water shall be made in service-pipes or water-fixtures, unless such change is approved by the said board or by their duly appointed agents.

SECT. 16. An owner or occupant of premises in which water furnished by the city is used, who fails to keep his service-pipes and fixtures in good order, and neglects to repair the same within three days after they have, from any cause, become defective, or who neglects to shut off the water after using it, so that it runs to waste, shall be liable to a penalty of two dollars; and if such penalty is not paid within two days from the time when the person incurring it receives notice that he is liable thereto, the water shall be cut off from his premises, and shall not be let on again until the waste is stopped and the penalty paid, together with an additional sum of two dollars for cutting off and letting on the water; and in case of a second offence during the same year a penalty of four dollars shall be imposed, and if it is not paid within two days, as aforesaid, the water shall be cut off and shall not be let on again until the cause of complaint is removed and the penalty paid, together with two dollars for cutting off and letting on the water; and in case of a third offence the water shall be cut off and shall not be let on again except by a vote of the said board and the payment of such penalty, not exceeding ten dollars, as the said board may impose.

SECT. 17. No hose shall be used in a stable for washing horses or carriages or for any purpose, except the extinguishing of fires, without special permission from the Boston water board, under a penalty of ten dollars for each offence; and if such penalty is incurred and is not paid within two days after demand for the same, made at such stable, the water shall be cut off from such stable, and shall not be let on again until such penalty is paid, together with the additional sum of two dollars for cutting off and letting on the water. The provisions of this section shall not apply to stables in which recording meters are placed to measure the water used.

Power Co. v. Allen, 120 Mass. 352; *Dwight Printing Co. v. Boston*, 122 Mass. 583; *Lund v. New Bedford*, 121 Mass. 286.

After the city had taken the waters of Long pond (lake Cochituate), and tributary streams, under St. 1846, c. 167, § 1, no riparian owner of such a stream (Pegan brook, for instance) could acquire by prescription the right to pollute its waters. *Martin v. Gleason*, 139 Mass. 183.

SECTION 1. The city council was authorized by St. 1875, c. 80, to establish by ordinance a "Boston Water Board" to consist of three persons to be appointed by the mayor subject to confirmation by the city council. By St. 1885, c. 266, § 1, the members are to be appointed by the mayor subject to confirmation by the board of aldermen, and are removable by the mayor upon assignment of cause. The ordinance establishing the term of three years was not confirmed by St. 1881, c. 229, but there seems to be no doubt of its validity under the general power (§ 38 of the charter), there being no statutory limit upon the length of term that might be established by ordinance at least prior to 1881, c. 229.

SECT. 6. The contracts referred to in this section were authorized by St. 1866, c. 212; St. 1867, c. 60; St. 1868, c. 202.

SECT. 10. Special authority to apply water-meters, and to require payment for water according to the amount used, was given by St. 1881, c. 205. As to the validity of hotel meter-rates, see *Parker v. Boston*, 1 All. 361.

SECT. 14. A personal liability to pay for the use of Cochituate water is laid on the owners and occupants of premises where it is used, by St. 1846, c. 167, § 14. The cutting off of the water for non-payment of water-rates does not render the city liable for damage done by a fire on the premises which might otherwise have been extinguished. *Tainter v. Worcester*, 123 Mass. 311.

SECT. 15. The city council of any city "in which water is supplied at the public expense" may by ordinance "prescribe rules and regulations for the inspection, materials, construction, alteration, or use of all pipes and fixtures through which such water is used," etc., etc. P. S. c. 27, §§ 16, 17; P. S. c. 28, § 2; P. S. c. 3, § 3, cl. 15. See also St. 1882, c. 252, § 2.

SECT. 18. Penalties for diverting the water, injuring the pipes, etc., are also provided by St. 1846, c. 167, §§ 14, 15; St. 1861, c. 105, § 14; St. 1861, c. 220, § 1; St. 1872, c. 177, § 7; St. 1874, c. 400, § 5.

CHAPTER 31.

OF THE WATER-REGISTRAR.

Section.

1. Appointment and general duties.
2. Further duties.
3. To make out and send to city collector all bills for use of water, etc.
4. Water-rates upon estates valued together, how based.

Section.

5. To keep certain books and make annual report to water board.
6. Subordinates.
7. To receive applications for turning water on or off, etc.
8. Mystic water-rates, where payable.

SECTION 1. There shall be annually appointed by the mayor, subject to confirmation by the board of aldermen, a water-registrar, who shall be a citizen of Boston, and who shall, under the direction and control of the Boston water board, assess all the water-rates of both the Cochituate and Mystic systems of water-works, according to such tariff as may be established by said board.

Appointment and general duties.
R. O. p. 90.

SECT. 2. The said registrar shall, as often as once in each year, cause to be visited, by skilled inspectors, the premises of every person who takes water; he may, in proper cases and under the control of said board, make and record abatements in water-rates; he shall exercise a constant supervision over the use of water, and attend to the enforcement of all regulations relative thereto; and he shall perform such other services as may be required of him by said board or by the city council.

Further duties.
R. O. p. 91.

SECT. 3. The said registrar shall, on or before the first day of January, annually, make out all bills for the use of water, and send the same, with lists of all the water-rates assessed, as prescribed in section thirteen of chapter four of these ordinances, to the city collector for collection; but said lists may vary from those prescribed in such manner as the collector shall request. He shall make out and forward to said collector all quarterly or supplementary bills as fast as they accrue during the year; on the first day of each month he shall send to the collector a statement of all bills accruing during the preceding month, and shall send a duplicate of such statement to the auditor.

To make out and send to city collector all bills for use of water, etc.

SECT. 4. When two or more dwelling-houses, or other estates, are valued together for the assessment of taxes, the water registrar shall make separate valuations of such houses or estates, and when a portion only of an estate is justly chargeable for a water-rate the water-registrar shall make a proper valuation of said portion; and the water rates to which such premises shall be liable shall, if based on valuations, be based on the valuations so made by said registrar.

Water-rates upon estates valued together how based.
R. O. p. 91.

To keep certain books and make annual report to water board.
R. O. p. 91.

SECT. 5. The said registrar shall keep suitable books, in which shall be entered the names of all persons who take water, the kind of building in which it is taken, the name of the street and the number thereon, the nature of the use, the number of taps, and the amount charged, and said books shall be always open to the inspection of the said board, of the mayor, and the city council; and all such books not actually in use shall always be open to public inspection. He shall annually, on or before the fifteenth day of May, present to said board a report containing a statement for the preceding year of the number of water-takers, the number of cases where the water has been cut off, the number and amount of abatements that have been made, the expenditures in his department, and such other matters as he, or the said board, may deem expedient.

Subordinates.

SECT. 6. The water-registrar shall be allowed for the discharge of his duties the following subordinates:—

One chief clerk,
Five schedule clerks,
Four meter clerks,
Three copying clerks,
Three examiners of premises,
One service clerk,
One assistant service clerk,
Five meter inspectors,
One marine agent.

To receive applications for turning water on or off.

SECT. 7. The said registrar shall receive all applications for water to be turned off or on for any cause, and also for all service and other pipes to convey a supply of water to the premises of water-takers.

Mystic water-rates, where payable.

SECT. 8. The water-rates of the Mystic supply shall be payable at the branch office of the water registrar in the Charlestown district.

NOTES.

The office of water-registrar is established and its duties defined by ordinance under § 38 of the charter, no mention being made of it in any statute. His appointment and removal, and the appointment and removal of his subordinates, are governed by St. 1885, c. 266, §§ 1, 5.

SECTION 1. The water board was given the power to "establish and regulate the price or rents" of water by St. 1875, c. 80, § 1. See also St. 1846, c. 167, §§ 11-13; St. 1861, c. 105, §§ 2-13. *Parker v. Boston*, 1 Allen, 361. See *Young v. Boston*, 104 Mass. 95. As to the proper remedy against illegal water-rates, see *Attorney-General v. Salem*, 103 Mass. 138, and *Carleton v. Salem*, Id. 141.

CHAPTER 32.

OF THE OVERSEERS OF THE POOR.

Section.

1. To have charge of Charity Building and Temporary Home.
2. To keep certain account books, and preserve papers, property, etc.

Section.

3. To keep in books certain facts relative to applicants for aid, etc.
4. Quarterly reports.
5. Annual report.
6. Books, etc., may be examined, etc.

SECTION 1. The "Overseers of the Poor in the City of Boston" shall have charge of the Charity Building and Temporary Home on Chardon street, and shall have power to make and enforce all such proper rules and regulations as they may deem expedient in relation thereto; but no such rule or regulation shall be in force after it has been disapproved by the city council. They shall, from time to time, with the approval of the city council, determine what societies shall be permitted to occupy said building, on what terms and for what length of time they may occupy it, and what proportion of the current expenses of managing, heating, and lighting the same and of all other expenses, except rent, shall be paid by each. Any occupant of said building may be removed at the pleasure of the said overseers.

To have charge of Charity Building and Temporary Home.
R. O. p. 95.

SECT. 2. The said overseers shall cause to be kept a complete set of books, wherein shall be stated in detail, among other things, the mode in which all funds in their hands are invested and how they are secured, the amounts and dates of all receipts and expenditures, and to whom and from what funds all payments are made; and they shall preserve all papers, property, evidences of property, vouchers, and other things entrusted to or deposited with them. They shall also state and enter in said books whatever other particulars said city council shall direct, relating to any property or moneys in their hands, entrusted to them, or expended under their direction, so that the said books may exhibit all said matters clearly, completely, and in detail.

To keep certain account books, and preserve papers, property, etc.
R. O. p. 95.

SECT. 3. They shall also cause to be kept another set of books, wherein shall be stated, among other things, the following facts relative to every person to whom relief or assistance has been given or refused, namely, — his or her name; residence for as long a period as can conveniently be ascertained; birthplace; occupation; property or means of support; whether married or single; name of husband or wife, if any; number, names, residences, and occupations of children, if any; names and residences of, and other information in regard to, ancestors, so far as such facts can be

To keep in books certain facts relative to applicants for aid, etc.
R. O. pp. 95, 96.

conveniently ascertained and may be of importance for determining settlements or other matters; the nature and the amount of the relief or assistance given, and the cause or ground upon which it was given or refused; the source or fund from which it was taken or derived; and all other particulars or information which it is for the public interest to preserve, so that said books may present, in a clear, complete, and detailed manner, and in such a form that it shall be readily accessible, all information which may be of value to the city or to the commonwealth in regard to persons to whom relief has been given or refused. Said overseers shall also cause to be kept a full and complete record of all applications by women and children for admission to the "Temporary Home," so called, which record shall contain the names of the applicants, the grounds upon which admission is granted or refused, and any other information which it is for the public interest to preserve.

Quarterly
reports.
R. O. p. 96.

SECT. 4. The said overseers shall, on the first Mondays in August, November, February, and May, present to the city council a brief and condensed report of their doings, receipts, and expenditures during the three months ending with the last day of the preceding month, showing concisely, and in such form and with such classification as they may deem expedient, their receipts and expenditures; the number and description of the persons relieved, but without naming them; and the kind of relief given.

Annual report.
R. O. p. 96.
Ord. 1888, c. 16.

SECT. 5. The said overseers shall annually, on the first Monday in June, submit a report of their doings, receipts, and expenditures for the year ending with the last day of the preceding April, containing under some convenient classification the facts and information comprised in their four preceding quarterly reports, together with a statement of all moneys, property, or investments remaining in their hands, and such information and suggestions as they may deem it expedient to present to the city council or as they may be requested by the mayor or city council to furnish; and they shall, whenever requested by the mayor or by the city council, communicate such information as may be desired by either.

Books, etc.,
may be ex-
amined, etc.
R. O. p. 96.

SECT. 6. All the aforesaid books, papers, and property may at any time be inspected or examined by the mayor, or by any committee or person whom the mayor, the board of aldermen, or the common council may direct or appoint so to do.

NOTES.

The "Overseers of the Poor in the City of Boston" are made a corporation, and their powers, duties, etc., are provided for by statute. See St. of April 25, 1772; St. 1802, c. 44; St. 1813, c. 171; St. 1823, c. 53;

CHAPTER 33.

OF THE CITY PRINTING.

Section.

1. Superintendent of printing, appointment and general powers.
2. to keep records and accounts, etc.; subordinates.
3. Printing, stationery, etc., to be supplied on requisitions, etc.
4. Superintendent to conform to orders of city council in purchase of supplies or contracting for printing.

Section.

5. Terms, "printing," "binding," and "stationery" defined.
6. Printed matter, custody and disposal of.
7. Stock used by departments, how charged and credited.
8. Superintendent to make annual report; to supply writing-inks of standard quality only.

Superintendent
of printing, ap-
pointment and
general powers.
R. O. 98.

SECTION 1. There shall be annually appointed by the mayor, subject to confirmation of the board of aldermen, a superintendent of printing, who shall have charge of all printing of documents for the city council, or either branch thereof, or any committee thereof, or for any department of the city government not specially exempt by law; but such authority shall not extend to the publication of the proceedings of either branch of the city council in any newspaper, or to advertisements ordered to be made in any newspaper. He shall also have charge of supplying stationery, of all descriptions, needed in the various departments, and of having binding done for the departments, except the public library.

to keep
records and
accounts, etc.;
subordinates.

SECT. 2. The said superintendent shall keep suitable records and books of account, and shall provide for the safe-keeping of the city property in his charge. He shall have allowed him for the performance of his duties as subordinates two clerks.

Printing, sta-
tionery, etc. to
be supplied on
requisitions, etc.
R. O. pp. 98, 99.

SECT. 3. Every board or officer in charge of a department whenever any printing, stationery, or binding is required, shall procure the same of or by the said superintendent, and shall make a requisition on him therefor on blanks to be furnished by him. If satisfied of the legality of such requisition, the superintendent shall at once comply with it, and shall make proper entries on his books. He shall require suitable evidence that the work done, or goods furnished, are accepted by the officer issuing the requisition, and shall then certify on the bills therefor that they are correct, before they are sent to the auditor.

Superintendent
to conform to
orders of city
council in pur-
chasing supplies
or contracting
for printing.

SECT. 4. The said superintendent shall conform to all legal orders of the city council in regard to the general method of purchasing supplies, or of contracting for the public printing; but he shall not be exempt from entire responsibility in the proper execution of all contracts made by him for the city.

SECT. 5. The term "printing" in this ordinance shall be construed to mean all engraving, stereotyping, electrotyping, lithographing, photographing, and other methods of work used in illustrating books, so far as the same are to be applied to any documents printed for or by the city government or any of its departments. The terms "binding" and "stationery" shall also be given the fullest meaning.

Terms "printing," "binding," and "stationery" defined.

SECT. 6. All documents, books, or pamphlets printed for the use and at the expense of the several executive departments of the city government shall be under the care and custody of the heads of the departments for which they are printed, subject, however, at all times to the control of the city council; and the city messenger shall, subject to such rules and regulations as the city council, or any committee thereof authorized for the purpose, may adopt, have the care, custody, and distribution of all documents, books, and pamphlets, the printing of which for the use of the city council, or either branch, has been, or may be from time to time, duly authorized.

Printed matter, custody and disposal of.
R. O. pp. 99, 100.

SECT. 7. The said superintendent shall, on the fifteenth day of each month, send to the several departments detailed bills of the stock used by them during the preceding month; and the said amounts shall be transferred on the books of the auditor from the appropriation for such departments severally, and shall be placed to the credit of the appropriation for printing, and used for the purposes for which said appropriation was raised.

Stock used by departments, how charged and credited.
Ord., 1883, c. 14.

SECT. 8. The said superintendent shall annually submit to the city council a report of the amount of printing, binding, stock, and stationery done for or supplied to each department of the city government, and the cost thereof; and generally of all matters transacted under his superintendence, including as full a statement as may be practicable of the kinds of writing-paper and writing-ink used in making and keeping the permanent record-books in the several departments and county offices. No writing-inks shall be supplied, except those of standard quality, as shown by the foregoing comparison and record.

Superintendent to make annual report; to supply writing-inks of standard quality only.
R. O. pp. 98, 99.

NOTES.

The office of superintendent of printing is established by ordinance under the general power conferred by § 38 of the city charter, and the manner of his appointment and removal, and of the appointment and removal of his subordinates, is determined by St. 1885, c. 266, §§ 1, 5.

CHAPTER 34.

OF THE SUPERINTENDENT OF LAMPS.

Section.

1. Appointment and general powers.
2. Duties.
3. Further duties.

Section.

4. Subordinates.
5. Annual report.

Appointment
and general
powers.
R. O. p. 101.

SECTION 1. There shall be appointed annually by the mayor, subject to confirmation by the board of aldermen, a superintendent of lamps, who shall have charge of the street lamps heretofore established by the board of aldermen and now or hereafter maintained at the expense of the city; and also have the care and custody of all city property now in the possession of the lamp department or hereafter acquired by it, and shall maintain and repair the same.

Duties.

SECT. 2. It shall be the duty of the said superintendent to set up and affix such and so many lamps in the streets and other places, as the board of aldermen may determine to be convenient and necessary; and to see that the public lamps of the city are lighted every night as heretofore.

Further duties.

SECT. 3. It shall be the duty of the said superintendent to contract annually for the necessary supplies of materials; also to contract for methods of lighting other than with oil, to such extent and for such periods as the board of aldermen may from time to time prescribe; and to see that all contracts for gas or electric lights are duly complied with.

Subordinates.

SECT. 4. There shall be allowed to the said superintendent the following subordinates:—

One clerk,
One assistant clerk, who shall also be stock clerk,
Five repairers,
One hostler.

Annual report.
R. O. p. 101.

SECT. 5. The said superintendent shall annually, on or before the tenth day of January, make to the city council a report containing a detailed statement of the expenses and operations of his department during the preceding year, and of the property under his charge belonging to the city, and of all unexpired contracts for lighting lamps with gas or electricity.

NOTES.

Special authority to place lamps in the streets of the city was given to the board of aldermen by St. 1825, c. 3. The entire executive work of lighting the streets is taken from the board of aldermen by St. 1885.

c. 266, §§ 6, 12, and is by this ordinance devolved upon the superintendent. So much of the St. 1825, c. 3, as vests in the board of aldermen the locating of lights, and the determination of their character and number, seems to be unaffected by St. 1885, c. 266, that duty not being executive, but of a quasi-judicial or ministerial character. See *Child v. Boston*, 4 All. 41, 51; *Cambridge v. Cambridge Railroad Company*, 10 All. 50, 57.

Cities and towns are under no legal obligation to light their streets, and are not liable for injuries caused by their failure to do so. *Randall v. Eastern R.R. Co.*, 106 Mass. 276, 277. — *Macomber v. Taunton*, 100 Mass. 255, 257. — *Lyon v. Cambridge*, 136 Mass. 419.

They are liable, however, for injuries caused by the negligent storage and explosion of material (as naphtha) used in lighting streets. *Sullivan v. Holyoke*, 135 Mass. 273.

CHAPTER 35.

OF THE RECORD COMMISSIONERS.

Section.

1. Appointment.
2. To complete records of births, marriages, and deaths, prior to 1849.

Section.

3. Power to expend money, etc.
4. Publication of reports of.

Appointment.
R. O. p. 102.

SECTION 1. There shall be annually appointed by the mayor, subject to confirmation by the board of aldermen, two record commissioners, who shall serve without compensation.

To complete records of births, marriages, and deaths, prior to 1849.
R. O. p. 102.

SECT. 2. The said commissioners shall complete, so far as practicable, the record of births, marriages, and deaths in the town and city of Boston prior to the year eighteen hundred and forty-nine, and shall receive and collect all documents obtainable therefor; and all documents and records so collected shall become at once the property of the city and shall be deposited in the office of the city registrar or in such other place as the city council may direct.

Power to expend money, etc.
R. O. p. 102.

SECT. 3. The said commissioners shall have no power, except by express vote of the city council, to enter into a contract or agreement in behalf of the city whereby the expenditure of money or any obligation shall be incurred, except that the chairman shall, unless other provision is made, have the charge and control of the expenditure of all moneys expressly appropriated for copying documents or records supplementary to the records of the town or city.

Publication of reports of.
R. O. p. 102.

SECT. 4. The expense of copying or preparing and indexing all volumes of reports made by the said commissioners shall be defrayed from their general appropriation; and the expense of printing and binding such volumes shall be charged to the appropriation for printing, and shall include the expense of stereotyping such volumes as the said commissioners may deem fit. The edition of such volumes shall consist of fifteen hundred copies, which shall be bound and distributed as the said commissioners may prescribe, but no copies shall be sold.

NOTES.

The record commissioners are established under the general power conferred by § 34 of the city charter, and the manner of their appointment and removal is determined by St. 1885, c. 266, § 1.

CHAPTER 36.

OF THE SUPERINTENDENT OF PUBLIC BUILDINGS.

Section.

1. Appointment and subordinates.
2. Duties in relation to public buildings.
3. To direct all ordinary repairs; city architect to furnish plans, etc.
4. To have charge of all city property in armories, and make annual report on same, etc.
5. May be directed by aldermen to perform other duties.

Section.

6. To keep records and make annual report.
7. To have charge of Faneuil Hall, subject, etc.
8. No building to be sold, or expenditure exceeding \$1,000 made, except, etc.
9. Fuel for use of city, contracts to be made by.
10. weighing, measurement, etc.

SECTION 1. There shall be annually appointed by the Appointment and subordinates. or, subject to confirmation by the board of aldermen, a R. O. p. 104. superintendent of public buildings, who shall be allowed, for discharge of his duties, the following subordinates: —

One clerk and book-keeper,
One assistant superintendent,
One fuel clerk,
One assistant clerk,
One engineer for the City Hall.

SECT. 2. The said superintendent shall, except as otherwise provided, have the supervision of all the buildings belonging to the city, and of all buildings or parts of buildings hired by the city, whether used for city or for county purposes, and shall provide therefor all necessary furniture and supplies except such as the superintendent of printing furnishes; shall keep himself acquainted with the condition thereof; shall superintend all repairs that may be ordered thereon, for which an appropriation shall be made, in accordance with the terms thereof. In case of any breach of contract by any contractor for work upon any city building the superintendent shall report the same to the mayor. Duties in relation to public buildings. R. O. p. 104.

SECT. 3. The repairs upon all public buildings, for the city or county use, which do not require to be done by contracts under the ordinances, shall be made under the direction of the superintendent, who shall be authorized to call upon the city architect for such plans as he may deem necessary. To direct all ordinary repairs; city architect to furnish plans to.

SECT. 4. The superintendent of public buildings shall have charge of the city property in all the armories provided by the city for the militia, shall report to the board of To have charge of all city property in armories, and make annual

report on same, etc. aldermen whenever repairs thereon are needed, and shall expend such sums of money for the purposes of such armories as shall be voted therefor. He shall keep all such expenditures as items of a distinct account, and shall annually, in January, present a report to the city council containing a detailed account of his expenditures, of the kind and amount of city property in such armories, and of the leases of buildings, or portions of buildings, hired by the city for armory purposes.

May be directed by aldermen to perform other duties. SECT. 5. The superintendent of public buildings may also perform any appropriate duties devolved upon him by vote of the board of aldermen, provided that the same do not interfere with the duties imposed by this ordinance, and provided that no additional compensation is given him payable out of the city treasury or by fees.

To keep records and make annual report. R. O. p. 104. SECT. 6. He shall keep an accurate record of all buildings belonging to the city, and of the lands appurtenant to such buildings; and he shall annually, in January, present to the city council a report in relation to the same, showing the condition of such buildings and land, and the nature and amount of the expenditures that have been made during the previous year in relation thereto.

To have charge of Faneuil Hall, subject, etc. R. O. p. 105. SECT. 7. The superintendent of public buildings shall have the care, custody, and management of Faneuil Hall, subject, however, to such orders in regard to its occupancy and uses as the board of aldermen may give from time to time.

No building, etc., to be sold, or expenditure exceeding \$1,000 made, except, etc. R. O. pp. 105, 106. SECT. 8. No building and no land appurtenant to a building shall be sold except by order of the city council. No expenditure exceeding one thousand dollars, for the alteration or repair of a building, shall be made without an express vote of the city council, or of the board of aldermen, as the case may be, authorizing the same; except that the superintendent of public buildings may expend, at his discretion, any money voted to him specifically for general repairs on city property in his charge.

Fuel for use of city, contracts to be made by. R. O. p. 38. SECT. 9. Contracts for all the fuel required for the use of the city shall be made annually, between the first day of May and the last day of September, by the superintendent of public buildings, in accordance with the provisions of these ordinances. The proposals shall contain, separately and distinctly, the terms upon which each particular description of fuel will be furnished, and shall provide for the delivery of the same at such times during the year and at such places as the superintendent of public buildings may require.

weighing, measurement, etc. R. O. p. 38. SECT. 10. All fuel contracted for by the city shall, before delivery, be weighed or measured by a sworn weigher or measurer, who shall give a certificate therefor as the same is delivered, and no bill for fuel shall be allowed for payment, unless it is accompanied by a receipt of delivery, indorsed upon such certificate.

NOTES.

The office of superintendent of public buildings is established under of the city charter; the manner of appointment and removal of the superintendent and his subordinates is determined by St. 1885, c. 266, § 1, 5.

"The care and custody of the public buildings" is given to the city council by section 39 of the city charter, but by St. 1885, c. 266, § 6, it is vested in the appropriate executive officer, — in this case the superintendent of public buildings, — under the supervision and control of the mayor. No change is, however, made by St. 1885, c. 266, in the power "lease or sell" the public buildings or other property of the city which section 39 of the city charter vests in the city council. The jail, court-house, and other county buildings belong to the city of Boston, and the board of aldermen have the same care and supervision of them that the county commissioners have of similar buildings in other counties. P. S. c. 22, §§ 3, 6, 20, 30. Special provisions relative to the power of the board of aldermen to erect, alter, or repair a county building are to be found in St. 1852, c. 266, § 4. The acts relating to the new Suffolk county court-house are St. 1880, c. 128, and St. 1885, c. 377.

"A city or town is not liable to a private citizen for an injury caused by any defect or want of repair in a city or town hall, or other public building erected and used solely for municipal purposes, or for negligence of its agents in the management of such buildings. * * * But when a city or town does not devote such building exclusively to municipal uses, but lets it or a part of it for its own advantage or emolument, by receiving rents or otherwise, it is liable, while it is let, in the same manner as a private owner would be." MORTON, J., in *Worden v. New Bedford*, 131 Mass. 23, 24. See also *Hill v. Boston*, 122 Mass. 344, and cases cited; and *Benton v. Trustees City Hospital*, 140 Mass. 13.

A city cannot erect buildings for business or speculative purposes, but when it has buildings built in good faith and used for municipal purposes, it may allow them to be used incidentally for other purposes, either gratuitously or for a compensation. See *Worden v. New Bedford*, 131 Mass. 23, 24.

SECT. 4. For the general provisions of law with reference to armories, see P. S. c. 14, §§ 92-99. See also Resolve of 1885, c. 12. By St. 1885, c. 266, §§ 6, 12, so much of the powers and duties of the board of aldermen in reference to armories as are executive are vested in the mayor, to be exercised through the appropriate executive officer, who by this ordinance is the superintendent of public buildings.

SECT. 7. Section 39 of the city charter provides that Faneuil Hall shall not be leased or sold.

CHAPTER 37.

OF THE CITY ARCHITECT.

Section.

1. Appointment; to give whole time to city.
2. General duties.

Section.

3. Other duties.
4. Subordinates.

Appointment;
to give whole
time to city.
R. O. p. 103.

SECTION 1. There shall be annually appointed by the mayor, subject to confirmation by the board of aldermen, a city architect, who shall be a citizen of Boston, and shall devote the whole of his time to the service of the city.

General duties.
R. O. p. 103.

SECT. 2. The said architect shall prepare all such plans, specifications, and estimates for the city as can properly be required of an architect, and shall be consulted on all important matters, relating to public improvements of every kind, where the advice of an architect would be of service; and when a board or officer in charge of a department in the city government is authorized to perform any work for which the services of an architect are required, such services shall, unless otherwise ordered, be performed by the said architect, or under his direction.

Other duties.

SECT. 3. Whenever any public building is to be constructed or altered by the city, the city architect shall prepare the plans, specifications, and estimates therefor. After they shall have been approved by the department, if any, for which said building is constructed, the architect shall then issue proposals for contracts for the various portions of the work; and shall, wherever feasible, make a separate contract for each class of work which is estimated to cost over one thousand dollars. He shall thereafter have charge of the inspection of the work while in progress, and shall examine and approve in writing all bills under such contracts, and transmit them to the city auditor for settlement.

Subordinates.
R. O. p. 103.

SECT. 4. The city architect shall be allowed for the performance of his duties the following subordinates:—

One clerk,
One assistant clerk and messenger,
One foreman,
Five draughtsmen.

NOTES.

The office of city architect is established by ordinance under the general power conferred by § 38 of the city charter. The manner of appointment and removal of the architect and of his subordinates is determined by St. 1885, c. 266, §§ 1, 5.

CHAPTER 38.

OF THE PUBLIC INSTITUTIONS.

Section.	Section.
1. General powers; clerk not to be member of board.	2. Superintendent of lunatic hospital, election, powers and duties.
	3. Quarterly and annual reports.

SECTION 1. The board of directors for public institutions shall have charge of the house of correction, the house of industry, the house of employment and reformation for juvenile offenders, the lunatic hospital, the city almshouses, and of all books, papers, property, and things pertaining to the said institutions; and they shall make all needful rules and regulations for the government and management of the same, and of their subordinates. The clerk of said board shall not be a member thereof.

General powers.

Clerk not to be member of board.
R. O. p. 108.

SECT. 2. The said board shall annually, in February, elect some suitable physician to be superintendent of the lunatic hospital. The said superintendent shall constantly reside at the hospital, and shall perform the duties of physician to such other institutions under the charge of the said board as the said board may require, and he shall, subject to the approval of said board, have charge and control of the hospital, grounds, buildings and appurtenances, and of the patients, subordinate officers, attendants, and domestics.

Supt. of lunatic hospital, election, powers and duties.
R. O. p. 108.

SECT. 3. The said board shall make a quarterly report to the city council of their expenditures for each of said institutions, and shall annually in January make a report, in print, of the expenditures and receipts of each institution for the previous year, giving the condition of each, with the number of inmates admitted thereto and discharged therefrom, the births and deaths therein, and the number of persons remaining in the same on the first day of said month, together with such other information pertaining thereto as they may deem to be of public interest.

Quarterly and annual reports.
R. O. p. 109.

NOTES.

The "board of directors for public institutions" was created by St. 1857, c. 35. By said statute (§ 1) the said board was to "have all the authority and powers, and be subject to all the duties now conferred and imposed, by virtue of existing statutes respectively, upon the directors of the houses of industry and reformation and the overseers of the house of correction, together with such other powers and duties in connection with the lunatic hospital and the management thereof as the city council may by ordinance, and in conformity to the statutes of the

commonwealth, provide." By section 3 of the same statute the city council was given "power to pass such ordinances, not inconsistent herewith, or repugnant to other laws of the commonwealth, as to the duties and authority of said board of directors, and providing for their reasonable compensation, as it may from time to time deem expedient and necessary." By Section 4, the board of directors for public institutions consisted of twelve members to be elected by the city council, — nine of them from the citizens at large, one from the board of aldermen, two from the common council. By St. 1885, c. 266, §§ 1, 3, the members are appointed by the mayor, subject to confirmation by the board of aldermen, and are removable by the mayor upon assignment of cause. Their number is reduced to nine by § 3, which takes from the board the three members of the city council.

Various provisions relative to the powers and duties of the said board, may be found in the Public Statutes. See P. S. c. 220, §§ 11–15, 20–23, 28, 42, 49, 59, 60, 66–70; P. S. c. 222, §§ 16, 20.

The earlier statutes, conferring and imposing powers and duties upon the various officers whose powers and duties were transferred as above to said board were the following; Statutes relative to directors of houses of industry. St. 1822, c. 56; St. 1826, c. 111; Statutes relative to directors of houses of reformation. St. 1825, c. 182; St. 1843, c. 22; St. 1865, c. 208, § 4; St. 1866, c. 283, § 4. (The office of overseers of houses of correction was abolished by St. 1877, c. 147, and the duties of those officers, in other counties than Suffolk, were transferred to the county commissioners. In Suffolk they had already been transferred to the board of directors of public institutions. The present powers of said board relative to the house of correction may now be found in the provisions of the Public Statutes, before referred to.) Statutes relating to the lunatic hospital. St. 1839, c. 131; St. 1851, c. 243; St. 1840, c. 79; St. 1857, c. 281.

CHAPTER 39.

OF THE CITY HOSPITAL.

Section.

1. Trustees, powers as to land and buildings.
2. Superintendent, general powers.
3. Hospital established for temporary relief; may admit paying patients, etc.
4. Annual report of trustees.

Section.

5. All gifts, bequests, etc., to constitute permanent fund, etc.
6. Duties of trustees as to permanent fund.
7. Property given, devised, etc., management of.

SECTION 1. The trustees of the city hospital may make all needful improvements in the land and grounds connected therewith; but they shall not make any change in the occupancy of the buildings in charge of said trustees without first obtaining the approval of the city council.

Trustees, powers as to land and buildings.
R. O. p. 111.

SECT. 2. The superintendent of the city hospital, appointed as provided in section six of chapter one hundred and seventy-four of the statutes of the commonwealth of the year eighteen hundred and eighty, shall constantly reside at the said hospital, and shall, under the direction of the said trustees, have the control of all departments thereof and of all subordinate officers, attendants, domestics, and patients, and the charge of the grounds, buildings, and appurtenances.

Superintendent, general powers.
R. O. p. 111.

SECT. 3. The city hospital is established for the reception of those only who require temporary relief during sickness, but the trustees may admit other persons to the institution, temporarily, when necessity requires; but such persons shall be removed to other appropriate public institutions as soon as their condition will permit such removal. The trustees may afford to persons making compensation therefor separate apartments and more accommodations than are customary when no compensation is made, and the compensation so received shall be credited to the account of the hospital.

Hospital established for temporary relief; may admit paying patients, etc.
R. O. p. 111.

SECT. 4. The said trustees shall annually, in January, present to the city council a report, made up to and including the last day of the preceding December, and containing a statement of receipts and expenditures, of the condition of the hospital, of the number of its inmates, of admissions thereto, discharges therefrom, and births and deaths therein during the year, and such other information or suggestions as the trustees may deem proper.

Annual report of trustees.
R. O. p. 111.

SECT. 5. All property and estate, real and personal, given, devised, or bequeathed to the city for the use of said hospital, shall, unless the donors thereof have otherwise

All gifts, bequests, etc., to constitute a permanent fund, etc.

R. O. pp. 111,
112.

directed, constitute a permanent fund, the principal of which shall not be diminished, and the income of which shall be devoted to the uses of the hospital.

Duties of trustees as to permanent fund.

R. O. p. 112.

SECT. 6. The said trustees shall exercise a careful supervision of all such property and estate so as to prevent any loss or diminution of the value thereof; and in the expenditure of the interest and income thereof they shall, in all cases in which conditions or directions have been attached to the gift, devise, or bequest, strictly observe and conform to such conditions or directions.

Property given, devised, etc., management of.
R. O. p. 112.

SECT. 7. All real estate and other property, except money, received by the said trustees from the principal of any gift, devise, or bequest for the benefit of the hospital, shall be leased or otherwise improved by them, and the rent and income thereof added to the moneys appropriated for the use of said hospital. The evidences of title to any such property shall be deposited with the city auditor.

NOTES.

The "trustees of the city hospital" were made a corporation and their duties and powers defined by St. 1880, c. 174. By sections 4, 5, and 7 of said statute the city council was given a limited power to control by ordinance the said trustees and the administration of the city hospital. By St. 1885, c. 266, § 1, the trustees are appointed by the mayor, subject to confirmation by the board of aldermen, and are removable by the mayor upon assignment of cause; by section 3 the two members of the city council retire from the board of trustees, the number of which is thus reduced to five. By St. 1880, c. 174, § 6, and St. 1885, c. 266, § 5, the subordinates are to be appointed, and removed and their compensation fixed, by the board of trustees.

The original establishment of the city hospital was authorized by St. 1858, c. 113. See also P. S. c. 84, § 20. As to the city's power to erect wooden buildings for hospital purposes, see St. 1873, c. 4.

The trustees are not liable for personal injuries caused by falling down stairs which were unsafely covered owing to the negligence of the superintendent. *Benton v. Trustees of the City Hospital*, 140 Mass. 13; nor would the city be liable for the same. *Field, J., Id.*, p. 17.

CHAPTER 40.

OF THE PUBLIC LIBRARY.

Section.

1. Trustees to endeavor to extend usefulness, and may establish branch libraries.

Section.

2. Trustees to appoint examining committee annually.
3. Trustees' annual report, etc.
4. Payments on account of, how made.

SECTION 1. In prescribing regulations for the care and use of books in the public library, the board of trustees of said library shall adopt such measures as will extend the benefits of the institution as widely as possible among the citizens and residents of the city; and when in their judgment the public interests will be advanced thereby, they may grant for a limited period privileges in said library to individuals who are not such citizens or residents, and they may from time to time establish branch libraries and delivery stations in different sections of the city.

Trustees to endeavor to extend usefulness, and may establish branch libraries.
R. O. p. 113.

SECT. 2. The said board shall annually appoint an examining committee of not less than five persons, not members of said board, who, together with one of said board as chairman, shall examine the said library and make to said board a report of its condition.

to appoint examining committee annually.
R. O. p. 113.

SECT. 3. The said board shall annually, in January, make to the city council a report for the year ending on the last day of the preceding December, containing a statement of the condition of the said library, the receipts and expenditures on account thereof, the number of books that have been added thereto during the year, and such other information or suggestions as they may deem important; and they shall, at the same time, transmit to the city council the annual report of the committee for the examination of the said library.

annual report, etc.
R. O. p. 113.

SECT. 4. No payment of money shall be made on account of the public library, except upon a requisition signed by the president of the said board.

Payments on account of, how made.
R. O. p. 113.

NOTES.

The "board of trustees of the public library" were made a corporation, and their mode of election, powers, and duties were defined by St. 1878, c. 114. By St. 1885, c. 266, § 1, the trustees are appointed by the mayor, subject to confirmation by the board of aldermen, and are removable by the mayor upon assignment of cause; by section 3 the two members of the city council retire from the board of trustees, reducing the number of the latter to five; by St. 1878, c. 114, § 6, and St. 1885, c. 266, § 5, the subordinates are to be appointed and removed and their compensation fixed by the board. The power of the city council to make ordinances affecting the powers and duties of said trustees was given by St. 1878, c. 114, § 7.

The general statute provisions relative to public libraries are to be found in P. S. c. 40, § 9, 11, St. 1885, c. 225.

The special statutes relative to the public library of Boston are St. 1853, c. 38; St. 1873, c. 286, § 12; St. 1880, c. 222; St. 1882, c. 143; St. 1883, c. 141.

CHAPTER 41.

OF THE PUBLIC LANDS.

Section.

1. Street commissioners to have care and improvement of.
2. Deeds, leases, etc., how executed.
3. Deeds of land not to be delivered until paid for, except, etc.

Section.

4. Moneys, notes, etc., from sales, etc., to be paid to city collector.
5. Records of vacant public lands to be kept.

Street commissioners to have care and improvement of.
R. O. p. 114.

SECTION 1. The care and improvement of the public lands, other than the common, the public garden, the public squares, the lands connected with the public institutions, and other lands purchased or held for specific purposes, shall be in the charge of the board of street commissioners, who, when ordered by the city council, may contract for the sale of said lands, and may sell or lease the same, and such sale may be at public auction or otherwise; *provided, however*, that all sales not at public auction, and all leases, shall be subject to the approval of the mayor.

Deeds, leases, etc., how executed.
R. O. p. 114.

SECT. 2. All deeds, leases, and contracts made by virtue of the preceding section shall be signed by the mayor and countersigned by the chairman of said board.

Deeds of land not to be delivered until paid for, except, etc.
R. O. p. 114.

SECT. 3. No deed of lands belonging to the city shall be delivered until the purchase-money has been paid in full, except that the mayor may, from time to time, on payment of an equivalent portion of the purchase-money, convey to a party to whom the city has contracted to sell, or to his heirs or assigns, one or more lots out of several which have been included in one contract or bond.

Moneys, notes, etc., from sales, etc., to be paid to city collector.
R. O. p. 114.

SECT. 4. All moneys paid by a purchaser or lessee of public lands, and all notes, bonds, mortgages, and securities arising or accruing from a contract made by said board under this chapter, shall be paid to or deposited with the city collector.

Records of vacant public lands to be kept.
R. O. p. 114.

SECT. 5. The said board shall keep an accurate record of all vacant lands belonging to the city; and when any such lands are purchased by the city for any purpose, the authority making such purchase shall make report thereof forthwith to the said board.

NOTES.

A sale of public land can only be by vote of the city council (§ 39 of city charter), and it seems that the vote is sufficient to pass title without a deed. *Adams v. Frothingham*, 3 Mass. 352; *Springfield v. Miller*, 12 Mass. 417; *Thomas v. Marshfield*, 10 Pick. 364, 367.

SECTION 1. A vote passed, in pursuance of an ordinance similar to this, recommending a sale to a person in accordance with the terms of his offer, and approved by the mayor, does not import a contract to sell which binds the city, but is only a preliminary to the completion of the contract by deed. *Dunham v. Boston*, 12 All. 375.

CHAPTER 42.

OF THE COMMON AND THE OTHER PUBLIC GROUNDS.

Section.

1. Superintendent, appointment; clerk.
2. powers and duties.
3. Trees on, climbing, tying animals to, and posting of bills on, forbidden.
4. Also cleaning carpets on.
5. Horses not allowed on, except, etc.
6. Turf, etc., on, not to be dug, etc.
7. Dead animals, filth, dirt, etc., not to be placed on; nuisances not to be committed on.

Section.

8. Hogs or grazing animals not allowed to go on.
9. Wheelbarrows, etc., not allowed on.
10. Nor athletic sports.
11. Nor public speaking.
12. Nor walking, etc., on flower-beds.
13. Nor throwing stones, etc.; nor injuring ice on ponds in.
14. Nor firing cannon, except, etc.
15. Nor sales of goods, etc.
16. Nor tents, booths, shows, etc.
17. Nor walking, etc., on grass, when forbidden by notices.

Superintendent,
appointment.
R. O. p. 116.

clerk.

powers and
duties.
R. O. p. 116.
Ord. 1883, c. 18.

Trees on, climb-
ing, tying ani-
mals to, and
posting bills on,
forbidden.
R. O. p. 116.

Also, cleaning
carpets on.
R. O. p. 116.

Horses not
allowed on, ex-
cept, etc.
R. O. p. 116.

Turf, etc., not to
be dug, etc.
R. O. p. 116,
116.

SECTION 1. There shall be annually appointed by the mayor, subject to confirmation by the board of aldermen, a superintendent of the common and public grounds, who shall be a resident citizen of Boston. He shall have allowed him as subordinate, one clerk.

SECT. 2. The said superintendent shall have the care and superintendence of the common, the public garden, and all the public squares and enclosures belonging to the city, and also of the trees in the streets of the city which are in the charge of the city council. He shall cause all statutes and ordinances, made for the protection of trees, shrubs, and flowers in the public grounds and streets of the city, to be strictly enforced, and shall institute legal proceedings against all persons violating such statutes or ordinances. He shall also perform all duties in regard to trees which may be assigned him by vote of the board of aldermen.

SECT. 3. No person shall, except by the permission of the mayor, climb a tree on the common or other public grounds, nor tie a horse or other animal to, or post a bill upon, any such tree.

SECT. 4. No person shall shake or otherwise cleanse a carpet on the common or other public grounds.

SECT. 5. No person shall, except by the permission of the mayor, ride, lead, or drive a horse in or upon the common or other public grounds, except that on occasion of a military exercise, parade, or review, horses necessary for the purposes thereof may be allowed upon the common.

SECT. 6. No person shall, except by the permission of the mayor and for some public use, dig or carry away sward, gravel, sand, turf, or earth in or upon the common, or in or upon any of the other public grounds.

SECT. 7. No person shall, except by the permission of the mayor, carry or cause to be carried upon the common or other public grounds, a dead carcass, ordure, filth, dirt, manure, or any offensive matter whatsoever, and no person shall commit a nuisance on the common or on any of the other public grounds.

Dead animals, filth, dirt, etc., not to be placed on.
Nuisances not to be committed on.
R. O. p. 116.

SECT. 8. No owner or keeper of a hog, horse, or grazing animal, shall suffer the same to go at large or to feed upon the common or other public grounds.

Hogs, or grazing animals, not allowed to go on.
R. O. p. 116.

SECT. 9. No person shall, except by the permission of the mayor, carry or cause to be carried upon the common or other public grounds a wheelbarrow, handcart, or other vehicle for the conveyance of burdens.

Wheelbarrows, etc., not allowed on.
R. O. p. 116.

SECT. 10. No person shall, except by the permission of the mayor, engage in a game of ball, football, or other athletic sport upon the public garden.

Nor athletic sports.
R. O. p. 116.

SECT. 11. No person shall, except by the permission of the mayor, deliver a sermon, lecture, address, or discourse on the common or other public grounds.

Nor public speaking.
R. O. p. 116.

SECT. 12. No person shall walk or stand upon a flower-bed on the common or other public grounds, nor suffer or permit a dog or other animal belonging to him, or in his charge, to stand or walk upon such a flower-bed.

Nor walking, etc., on flower-beds.
R. O. p. 116.

SECT. 13. No person shall, except by the permission of the mayor, throw or place stones, sand, gravel, tan, earth, filth, rubbish, or other substances, in or upon any pond on the common or other public grounds, or upon the ice on any such pond, nor cut, break, or remove the ice in or from such pond.

Nor throwing stones, etc.; nor injuring ice on ponds.
R. O. p. 116.

SECT. 14. No cannon or artillery shall be fired by the militia or others upon the common or other public grounds, unless such firing is authorized by the city council, the mayor, or the commander-in-chief of the militia of the commonwealth.

Nor firing cannon, except, etc.
R. O. p. 116.

SECT. 15. No person shall, except by the permission of the mayor, expose for sale or sell any goods, wares or merchandise on the common or other public grounds.

Nor sales of goods, etc.
R. O. p. 116.

SECT. 16. No person shall, except by the permission of the mayor, erect or maintain a booth, stand, tent, or apparatus for purposes of public amusement or show on the common or other public grounds.

Nor tents, booths, shows, etc.
R. O. p. 116.

SECT. 17. No person shall walk, stand, or lie on the grass on the common or other public grounds after the mayor has prohibited such walking, standing, or lying, and has notified the public of such prohibition by a legible notice placed in those parts of the public grounds from which he¹ may consider it necessary temporarily to exclude the public.

Nor walking, etc., on grass when forbidden by notices.
R. O. p. 116.

¹ Amended by substituting "he" for "said committee" by an ordinance approved Feb. 10, 1886. (Ord. 1886, chap. 3.)

NOTES.

The office of superintendent of the common and public grounds is established by ordinance under the general power conferred upon the city council by § 38 of the city charter. The manner of appointing and removing the superintendent and his subordinates is determined by St. 1885, c. 266, §§ 1, 5.

The authority of the city council with regard to the common and public garden is limited by section 39 of the charter, by St. 1859, c. 210, and by P. S. c. 54, §§ 13, 14, 16, 17.

A statute penalty for the injury of trees, etc., in the streets and public grounds, is provided for by P. S. c. 54, §§ 7, 8. See *Commonwealth v. Wilder*, 127 Mass. 1.

As to the planting of shade-trees in highways see P. S. c. 54, § 6. See also *White v. Godfrey*, 97 Mass. 472, *Bliss v. Ball*, 99 Mass. 597.

The creation of a park commission and the laying out of public parks is authorized by St. 1875, c. 185. The ordinances contained in this chapter have no application to parks laid out under the statute just referred to.

The city is not liable for injuries caused to a person on the common by collision with a sled. *Steele v. Boston*, 128 Mass. 583, and cases cited; nor by a defect in its foot-ways. *Oliver v. Worcester*, 102 Mass. 489. But if a portion of the common becomes a part of a public highway by prescription, the city is liable for injuries caused by a defect therein. *Veale v. Boston*, 135 Mass. 187.

SECT. 2. This ordinance does not empower the superintendent to cut down a tree in the street belonging to an abutter, and the city is not liable for injuries received by a workman employed by him to do so. *McCarthy v. Boston*, 135 Mass. 197.

SECT. 11. As to the validity of this ordinance, see *Commonwealth v. Davis*, 140 Mass. 485.

CHAPTER 43.

OF THE CHESTNUT-HILL RESERVOIR AND THE ADJOINING GROUNDS.

Section.	Section.
1. Fishing, or firing guns, prohibited.	5. Also fast-driving.
2. Also bathing, boating, throwing filth, or committing nuisances.	6. Also injuring trees, fences, grass, etc.
3. Also vehicles for conveying burdens.	7. Also climbing trees, tying horses to fences, etc.
4. Also funerals.	8. Also posting bills, placards, etc.

SECTION 1. No person shall fish in the Chestnut-hill Reservoir, or discharge a gun or fire-arm on the same or on the grounds connected therewith. Fishing or firing guns, prohibited. R. O. p. 118.

SECT. 2. No person shall bathe in the Chestnut-hill Reservoir or place or use a boat therein, or throw dirt, rubbish, filth, or offensive matter or commit a nuisance therein. Also bathing, boating, throwing filth or committing nuisances. R. O. p. 118.

SECT. 3. No person shall drive a team, cart, wagon, or other vehicle for the conveyance of burdens upon the drive-way or within the grounds of the Chestnut-hill reservoir. Also vehicles for conveying burdens. R. O. p. 118.

SECT. 4. No person shall drive or conduct a funeral, or a hearse or carriage connected with a funeral, on the drive-way of the Chestnut-hill reservoir. Also funerals. R. O. p. 118.

SECT. 5. No owner or other person having for the time being the charge or use of a horse or other animal shall drive or permit such horse or animal to go at a greater rate of speed than eight miles an hour upon the drive-way or within the enclosure of the Chestnut-hill reservoir. Also fast-driving. R. O. p. 118.

SECT. 6. No person shall injure, deface, or destroy any tree, shrub, grass, path, or fence on the grounds connected with the Chestnut-hill reservoir, or dig or carry away the sward, gravel, rock, stones, sand, turf, or earth thereon, or commit a nuisance thereon. Also injuring trees, fences, grass, etc. R. O. p. 118.

SECT. 7. No person shall climb a tree on the grounds connected with the Chestnut-hill reservoir, or tie a horse or other animal to a tree or fence on said premises. Also climbing trees, tying horses to fences, etc. R. O. p. 118.

SECT. 8. No person shall post a bill, placard, or advertisement within the grounds connected with the Chestnut-hill reservoir. Also posting bills, placards, etc. R. O. p. 118.

NOTES.

The ordinances contained in this chapter are specially authorized by P. S. c. 27 § 18.

CHAPTER 44.

OF THE EAST BOSTON FERRIES.

Section.

1. Directors, appointment.
2. organization.
3. general powers and duties.
4. subordinates.

Section.

5. Receipts from tolls, etc., to be paid to city collector.
6. Annual report, etc.
7. Present board to exercise powers and duties until, etc.

Directors, ap-
pointment.
R. O. p. 119.

SECTION 1. After the first Monday of April in the year eighteen hundred and eighty-six there shall be annually appointed by the mayor, subject to confirmation by the board of aldermen, five persons who shall be citizens of Boston, to be directors of the East Boston ferries.

organization.
R. O. p. 119.

SECT. 2. The persons so appointed shall constitute a board of directors of the East Boston ferries, and the said board shall annually organize, by the choice of one of their number as president, and shall also choose a clerk, who shall not be a member of the board. A majority of the whole board shall be necessary to constitute a quorum for the transaction of business.

general
powers and
duties.
R. O. pp. 119,
120.

SECT. 3. The said board shall have the general care and management of the East Boston ferries, owned by the city, and for that purpose they shall have and exercise all the powers vested in the city council by the eleventh section of chapter two hundred and forty-four of the statutes of the commonwealth of the year one thousand eight hundred and fifty-two, and by chapter one hundred and fifty-five of the statutes of the commonwealth of the year one thousand eight hundred and sixty-nine, so far as said powers can be legally delegated.

The said board shall make necessary repairs and alterations in the ferry-boats and in the slips, drops, tanks, and buildings used for ferry purposes; but they shall not purchase additional boats, or erect new buildings, without first obtaining the approval of the city council.

subordinates.
R. O. pp. 119,
120.

SECT. 4. There shall be allowed to the said board of directors, for the discharge of their duties, the following subordinates:—

One clerk,
One superintendent,

and such other subordinates as may be necessary, and for whose compensation an appropriation has been made.

CHAPTER 45.

OF BRIDGES.

Section.

1. Superintendent, appointment and general powers.
2. subordinates.
3. Draw-tenders, powers and duties.
4. to regulate passage of vessels.
5. Penalty for injuring bridges, etc.
6. Superintendent to appoint draw-tenders, except, etc., and to make rules and regulations.

Section.

West Boston and Cragie Bridges.

7. Commissioner, appointment.
8. powers.

Prison-Point Bridge.

9. Commissioners, appointment.
10. powers.
11. Annual reports of superintendent and commissioners.

Superintendent,
appointment and
general powers.

SECTION 1. There shall be annually appointed by the mayor, subject to confirmation by the board of aldermen, a superintendent of bridges, who shall have the care and management of the bridges specified in section two, and the supervision of all other bridges within the city limits, and the charge of all repairs to be made on any bridges to the extent prescribed in chapter eighteen of these ordinances; and he may perform any of the duties herein prescribed to any of his subordinates.

subordinates.
R. O. p. 122.

SECT. 2. There shall be allowed to the said superintendent the following subordinates: —

One draw-tender, two assistants, and one engineer for Broadway bridge.

One draw-tender for Cambridge-street bridge (Brighton district), Western-avenue bridge to Cambridge, and North Harvard-street bridge.

One draw-tender and four assistants for Charles-river bridge.

One draw-tender and two assistants for Chelsea bridge (south).

One draw-tender and one assistant for Chelsea bridge (north).

One draw-tender at Chelsea-street bridge.

One draw-tender at Commercial-point or Tenean bridge.

One draw-tender, three assistants, and one engineer at Congress-street bridge.

One draw-tender and four assistants at Dover-street bridge.

One draw-tender at Essex-street bridge.

One draw-tender and three assistants at Federal-street bridge.

Penalty for in-
juring bridges,
etc.
R. O. p. 123.
Ord. 1884, c. 1.

SECT. 5. Whoever defaces, breaks, or injures either of said bridges, or the wharves connected therewith, or unnecessarily opens the draw of such bridge; or obstructs the passage of the same; or makes fast to such bridge, or to a guard or pier thereof, a vessel, scow, raft, or float; or allows a vessel under his charge to pass through such draw; or remains inside the road gates while they are closed; or enters or remains upon any pier, wharf, fender, or appurtenance of such bridge, without the consent of the draw-tender of the bridge, shall, for each offence, be subject to a penalty of not less than three and not more than fifty dollars.

Superintendent
to appoint draw-
tenders, except,
etc., and to make
rules and regula-
tions.
R. O. p. 123.

SECT. 6. The said superintendent shall annually appoint, on the part of the city, draw-tenders of all those bridges, except West Boston, Cragie, and Prison-Point bridges, which are only in part controlled and maintained by the city of Boston, and he shall prescribe suitable rules and regulations for the government of such draw-tenders.

West Boston and Cragie Bridges.

Commissioner,
appointment.
R. O. p. 123.

SECT. 7. The mayor shall annually appoint, subject to confirmation by the board of aldermen, a commissioner on the West Boston and Cragie or Canal bridges, to hold office for one year from the first Monday in May in the year in which he is appointed.

powers.
R. O. p. 123.

SECT. 8. The said commissioner shall, in conjunction with a commissioner for the city of Cambridge, have and exercise all the powers, in relation to the care and management of said bridges, which are conferred by chapter three hundred and two of the statutes of the commonwealth of the year eighteen hundred and seventy.

Prison-Point Bridge.

Commissioner,
appointment.
R. O. p. 123.

SECT. 9. The mayor shall annually appoint, subject to confirmation by the board of aldermen, a commissioner on Prison-Point bridge, to hold office for one year from the first Monday in May in the year in which he is appointed.

powers.
R. O. p. 124.

SECT. 10. The said commissioner shall, in conjunction with a commissioner for the city of Cambridge, have and exercise all the powers, in relation to the care and management of said bridge, which are conferred by chapter three hundred of the statutes of the commonwealth of the year eighteen hundred and seventy.

Annual reports
of superintend-
ent and commis-
sioners.
R. O. pp. 123,
124.

SECT. 11. The said superintendent of bridges and the said commissioners shall annually, in January, submit to the city council written reports, containing particular accounts, for the year ending on the preceding thirty-first day of December, of the expenditures on account of the bridges under their control respectively, the number of times the draws thereof have been opened, and other matters of general interest in relation thereto.

NOTES.

The office of superintendent of bridges, appointed by the mayor, subject to confirmation by the board of aldermen, is created under the general power conferred by § 38 of the city charter; P. S. c. 53, § 29; and St. 1885, c. 266, § 1; and its occupant is removable by the mayor upon assignment of cause. St. 1885, c. 266, § 1. His subordinates are appointed by him, and are removable by him upon assignment of cause. St. 1885, c. 266, § 5.

Sections 2-5 of this chapter are authorized by P. S. c. 53, §§ 28, 29; but it is there provided that ordinances on this subject shall not take effect until approved by the board of harbor and land commissioners. P. S. c. 53, §§ 30-32, contain further provisions relative to the subject of this chapter.

Sections 7, 8, and 11 are authorized by St. 1870, c. 302, § 6, and St. 1885, c. 266, § 1; and sections 9-11 by St. 1870, c. 300, § 2, and St. 1885, c. 266, § 1.

The appointment and removal of the commissioners of West Boston and Cragie, and Prison-Point bridges is governed by St. 1885, c. 266, § 1.

The care of the Charles-river and Warren bridges is vested in the city, the same to be maintained as public highways at its own expense, and in accordance with such ordinances as the city council may establish. St. 1874, c. 259.

As to the maintenance of Chelsea bridge, see P. S. c. 22, § 8.

It has been held that the city is not liable for the detention of a vessel resulting from the negligence of the draw-tender of the Warren bridge, or from the fact that the draw is narrower than is required by St. 1870, c. 401; *French v. Boston*, 129 Mass. 592.

The following acts affect the city's duties in relation to the respective bridges mentioned:—Malden, St. 1874, c. 139; Congress street (formerly Eastern avenue), 1869, c. 78; Granite, 1865, c. 192, § 3; 1869, c. 349, § 2; Mount Washington avenue, 1853, c. 255, § 7; Federal street, 1825, c. 147; Chelsea Point, 1849, c. 106; Meridian street (formerly East Boston), 1855, c. 335; 1856, c. 109; Dover street (formerly Boston South), 1831, c. 71.

CHAPTER 46.

OF THE FANEUIL-HALL MARKET.

Section.

1. Superintendent, appointment.
2. subordinates.
3. general powers and duties.
4. Market limits defined.
5. Stalls and cellars, leasing of; leases not to be assigned nor premises underlet, etc.; rents to be paid to city collector.
6. Lessees to forfeit rights in certain cases.
7. Superintendent to control vehicles and stands.
8. may order removal of vehicles, boxes, etc.; penalty for non-compliance.
9. Horses, etc., to be taken from vehicles having stands; abandoned horses, vehicles, etc., to be removed, etc.
10. Vehicles not to stand in certain positions, except, etc.

Section.

11. Vehicles, with fresh provisions, etc., right to stand between 11 A.M. and 4 P.M., restricted.
12. business, etc., prohibited at certain times.
13. Who may occupy stands, etc.
14. Stands not to be occupied within certain hours, etc.
15. Lessees of stalls, etc., not to encumber passage-ways, etc.
16. nor allow offal, filth, etc., on their premises.
17. Offal, sweepings, etc., not to be thrown into passage-ways, streets, etc.
18. Tainted meat, fish, etc., prohibited and disposal of.
19. Gaming, smoking, disorderly conduct, etc., prohibited.
20. Butter to be sold by weight, etc.
21. Fraudulent dealing prohibited.

Superintendent,
appointment.
R. O. p. 125.

SECTION 1. The mayor shall annually appoint, subject to confirmation by the board of aldermen, a superintendent of the Faneuil-Hall market.

subordinates.
R. O. p. 125.

SECT. 2. There shall be allowed to the said superintendent the following subordinates:—

One deputy superintendent,
One day officer,
Two night officers,
One weigher at city scales.

general pow-
ers and duties.
R. O. pp. 125,
126.

SECT. 3. The said superintendent shall have the care and superintendence of the Faneuil-Hall market; and it shall be his duty to preserve order therein and to execute and carry into effect all regulations, orders, and ordinances in relation thereto, which may be duly made and established from time to time by the city council or by the board of aldermen, and to enter and prosecute complaints for violations thereof. He shall also keep open and unobstructed for the passage of vehicles, at all hours of every market day after eight o'clock in the morning, the south part of South Market street, through the entire length of said street, and to the width of thirty-five feet from the outside limits of the southerly sidewalk of said street.

Market limits
defined.
R. O. p. 126.

SECT. 4. The limits of Faneuil-Hall market shall include the lower floor, porches, and cellars of the buildings called

respectively Faneuil Hall and Quincy Hall, and the following-described portions of the adjacent streets, namely : so much of Commercial street as lies westerly of the sidewalk on the easterly side thereof, and between the outer lines of the sidewalks on the northerly side of North Market street and on the southerly side of South Market street extended eastwardly ; all of North and South Market streets, except the northerly sidewalk of the former and the southerly sidewalk of the latter ; all that portion of Merchants' Row included between the outer lines of the aforesaid northerly and southerly sidewalks extended westerly across said Merchants' Row, and all of Faneuil-Hall square, except the sidewalks on the northerly, southerly, and westerly sides thereof,— the above-described limits being delineated on a plan made by N. Henry Crafts, city engineer, dated March twelfth, eighteen hundred and sixty-six.

SECT. 5. The several stalls and cellars in said market shall be leased in terms of five years, from the first day of April in the year eighteen hundred and eighty-two. The minimum prices therefor shall be established by vote of the city council, at a date not less than one month, and not more than three months, before the beginning of each term of lease. The superintendent shall receive a copy of such vote forthwith from the city clerk, and shall notify the tenants then occupying, who shall have the option of taking, at such price, a new lease of their respective holdings, subject to the approval of the mayor. All stalls and cellars not so taken at the date of the beginning of the new term or lease shall be leased to suitable persons by the superintendent, at not less than the rents affixed by the order of the city council. All leases shall require the written approval of the mayor. It shall be the duty of the superintendent, within sixty days of the date fixed for the renewal of the leases, to report to the mayor any tenant who is, or has been, delinquent in paying his rent, or has neglected, or refused, to comply with the regulations governing the market.

The lessees of said stalls and cellars shall not, without the written assent of the mayor, assign any lease of, or underlet any stall or cellar, or any part thereof, nor permit the same to be occupied by any other person, under the penalty of forfeiting the right to such cellars and stalls.

The rents reserved in such leases shall be payable to the city collector, and the superintendent of markets shall furnish the bills and lists thereof according to the provisions of these ordinances.

SECT. 6. When the lessee of a stall or cellar in said market vacates the same, or neglects or refuses for the space of twenty-four hours after his rent has become payable, to pay the same, or neglects or refuses to comply with any regulation established for the good order and cleanliness of the said

Stalls and cellars, leasing of.

leases not to be assigned nor premises underlet, etc.

rents to be paid to city collector. R. O. p. 126.

Lessees to forfeit rights in certain cases. R. O. p. 126.

market-house, its entries, passage-ways, and sidewalks, and of the streets adjoining thereto, such stall or cellar shall thereupon revert to the city, and shall be leased for the unexpired term in the manner prescribed by section five of this chapter.

Superintendent
to control vehi-
cles and assign
stands.
R. O. p. 126.

SECT. 7. The said superintendent and his deputies shall have the control of all vehicles within the limits of said market, and may assign stands within said limits for the sale of provisions and other articles; and no person shall occupy any stand other than such as is so assigned to him.

may order re-
moval of vehi-
cles, boxes, etc.

SECT. 8. The said superintendent may remove from place to place within said limits (if the owners or possessors thereof neglect or refuse, after being requested, so to remove them, or if the owner or possessor is absent therefrom), all vehicles, with their contents and all horses and other beasts, which are ranged or formed in any other manner than as directed by said superintendent; and the owner or person having charge of a vehicle, box, barrel, cask, crate, basket, package, tub, or other vessel, whether empty or not, occupying a place within said limits, shall, when directed by said superintendent cause the same with its contents to be removed without delay to such place within said limits as the said superintendent may direct; and in case of the neglect or refusal of such owner or possessor so to do, or in case of the absence of such owner or possessor, so that the direction to remove cannot be given by said superintendent and immediately complied with, such owner or possessor shall be liable to the penalty provided in section five of chapter one for breaches of these ordinances.

penalty for
non-compliance.
R. O. pp. 126,
127.

Horses, etc., to
be taken from
vehicles, having
stands; aban-
doned horses,
vehicles, etc., to
be removed, etc.
R. O. p. 127.

SECT. 9. All horses and other beasts shall be taken from vehicles having provisions or articles of any kind for sale therein and standing within the said limits, and shall be conducted by their owner or driver to a stable, or otherwise removed from said limits; and if the said superintendent finds a vehicle, horse, or other beast abandoned and left unprotected within said limits, he shall cause such vehicle with its contents, and such horse or other beast, to be conducted to some stable or other suitable place; and the owner or person having the care or keeping thereof shall be liable to pay, before the redelivery thereof to him, the entire cost and expense of the removal and keeping thereof during the time it is in said stable or other suitable place, together with such further sum of money, not exceeding two dollars, for the trouble arising in that behalf, as the said superintendent may demand, the same to be paid to said superintendent and accounted for to the city.

Vehicles not to
stand in certain
positions, ex-
cept, etc.
R. O. p. 127.

SECT. 10. No person having the care or ordering of a vehicle shall place the same or allow the same to be abreast of or in a line with or near to any other vehicle within said limits, in such a manner as to obstruct a free passage for

other vehicles, but this section shall not apply to the vehicles of market or provision men, standing within said limits with fresh provisions or perishable produce for sale before eleven o'clock in the forenoon, or after four o'clock in the afternoon and before the closing of said market at night.

SECT. 11. No owner, driver, or other person having the care or ordering of a vehicle, which has fresh provisions or perishable produce therein, shall suffer the same to remain within the limits of said market for more than twenty minutes between the hours of eleven o'clock in the forenoon and four o'clock in the afternoon, unless permitted so to do by the said superintendent.

Vehicles with fresh provisions, etc., right to stand between 11 A.M. and 4 P.M. restricted. R. O. pp. 127, 128.

SECT. 12. No vehicle, horse, or other beast shall be permitted to stand within the limits of said market on any part of the Lord's day or evening, nor shall any person continue to do business within the limits of said market on a week-day after the hour prescribed for closing the market, except on the evenings immediately preceding Thanksgiving and Christmas days, nor on an evening after the closing of the market-house; and no person shall place or leave a vehicle, box, barrel, crate, cask, or other vessel, empty or otherwise, within the limits of said market on any part of the Lord's day or evening, or on a week-day, after the said hour prescribed for closing the market, except on the evenings immediately preceding Thanksgiving and Christmas days, or on an evening after the closing of the market-house; and the said superintendent may cause a vehicle or article so left or placed to be removed in the manner provided in the eighth and ninth sections of this chapter, or in either of them.

Vehicles, business, etc., prohibited at certain times. R. O. p. 128.

SECT. 13. No person shall occupy a street stand within the limits of the said market, unless for the sole purpose of selling fresh provisions or perishable produce, the product of his own farm or of some farm within ten miles of his residence, or for the purpose of offering fresh provisions or perishable produce for sale at wholesale on commission for, or as agent of, some person or persons not residing or having a usual place of business within eight miles of said market; and meats shall be sold at wholesale only by the person who slaughtered the animals of which such meats were a part.

Who may occupy stands, etc. R. O. p. 128.

SECT. 14. Between the hours of eleven o'clock in the forenoon and four o'clock in the afternoon, or between the closing of the said market at night and the morning of the next day, no person shall, without the permission of the said superintendent, occupy a street stand or other place within the limits of the said market for the sale of fresh provisions or of perishable produce, nor have in his possession within said limits fresh provisions or perishable produce with intent to sell the same.

Stands not to be occupied within certain hours, etc. R. O. p. 128.

Lessees of stalls,
etc., not to en-
cumber passage-
ways, etc.
R. O. p. 128.

SECT. 15. No lessee of a stall or occupant of a stand shall encumber with casks, barrels, meat, or otherwise, the main passage-way or the cross passage-ways within the said market-house, nor the passage-ways outside of said house in front of the door-ways and leading into the middle of the streets, nor the avenues leading to and from the said market.

nor allow offal,
filth, etc., on
their premises.
R. O. pp. 128,
129.

SECT. 16. No lessee of a stall or cellar in said market shall throw, or permit to be thrown or to remain within the precincts of his stall or cellar, any offal, animal substance, scrapings, or other kind of dirt, filth, or useless or offensive matter; but every such lessee shall forthwith remove the same, or cause the same to be deposited in tight vessels, approved by the said superintendent, and to be removed as the said superintendent may direct.

Offal, sweep-
ings, etc., not to
be thrown into
passage ways,
streets, etc.
R. O. p. 129.

SECT. 17. No person shall at any time, during the day or night, throw or sweep any offal, animal or vegetable substance, scrapings and sweepings, damaged salt, brine, pickle, or foul water from stalls or cellars into the passage-ways, or upon the sidewalks, or into the streets adjoining said market-house.

Tainted meat,
fish, etc., pro-
hibited, and
disposal of.
R. O. p. 129.

SECT. 18. No person shall, within the limits of said market, sell, or offer to sell, or expose for sale, or have in his possession, meat, fish, bread, vegetables, tallow, skins, pelts, poultry, or other articles which in the opinion of said superintendent are diseased, corrupted, tainted, or unwholesome; but any person having in his possession any of such articles shall, when directed by said superintendent, forthwith remove the same from said limits to such suitable place as the said superintendent may direct; and if he refuses or neglects to comply with such direction, or if the owner or person having charge of such articles is absent for more than one hour, the said superintendent shall forthwith remove such articles, or cause them to be removed, from said limits to such suitable place as aforesaid at the expense of such owner or person; and if in the judgment of said superintendent it is necessary for the public health, it shall be his duty to destroy such articles; and if any person hinders, obstructs, or molests said superintendent, or any person employed by him, in the premises, he shall be liable to the penalty provided in section five of chapter one for breaches of these ordinances.

Gaming, smok-
ing, disor-
derly behavior,
etc., prohibited.
R. O. p. 129.

SECT. 19. No person shall, within the limits of said market, play at any game, or lie down, or sleep, or behave in a disorderly, noisy, or riotous manner, or scuffle, or throw any missile or thing whatsoever; nor shall any person within said limits smoke, or have a lighted pipe or cigar in his possession; nor shall any idle or disorderly person, itinerant peddler, or transient person making a disturbance or noise, be allowed to frequent or to tarry within said

limits after being forbidden so to do by the said superintendent.

SECT. 20. All butter brought within the limits of said market for sale shall be sold by weight; and if it is in lumps, each lump shall contain butter weighing one or more even integral pounds or quarter pounds, and the superintendent may take and weigh all butter in lumps exposed for sale in said market, and if a lump is found to be deficient in weight, may destroy the form thereof.

Butter to be sold
by weight, etc.
R. O. pp. 129,
130.

SECT. 21. No person shall, within the limits of said market, sell, offer to sell, or exhibit for sale, an article which is deficient in the weight or measure for which the same is sold or offered or exhibited for sale, nor shall any person otherwise practise any fraudulent dealing within said limits.

Fraudulent deal-
ing prohibited.
R. O. p. 130.

NOTES.

The special provisions of law with reference to Faneuil-Hall market are found in St. 1823, c. 148; St. 1859, c. 211; St. 1860, c. 152.

As to the city council's power to authorize erection of wooden buildings for market purposes, see St. 1885, c. 374, § 21. St. 1882, c. 101, is repealed by St. 1885, c. 374, § 147.

As to general powers of cities and towns to appropriate money for market purposes, see *Spaulding v. Lowell*, 23 Pick. 71.

SECTION 1. The manner of appointing and removing the superintendent of Faneuil-Hall market, and his subordinates, is fixed by St. 1885, c. 266, §§ 1, 5. By §§ 6, 12, of the same act, all the executive powers formerly vested in the board of aldermen, in reference to the market, are vested in the mayor, to be exercised through the appropriate officer under the mayor's general supervision and control.

SECT. 4. See St. 1823, c. 148, § 1.

SECT. 5. The stalls and cellars are now leased for five years from April 1st, 1882.

SECT. 7. See *Nightingale*, Petitioner, 11 Pick. 168.

SECTS. 10, 11. The provisions of these sections appear to be in part based upon St. 1859, c. 211, § 1, and St. 1880, c. 152, § 1. As to the validity of section 11, see *Commonwealth v. Brooks*, 109 Mass. 355.

SECTS. 13, 14. The subject of these sections is regulated by St. 1859, c. 211, § 1, and St. 1860, c. 152, § 1. The validity of an ordinance similar to these sections was determined in *Commonwealth v. Rice*, 9 Met. 253, 258.

CHAPTER 47.

OF THE MOUNT HOPE CEMETERY.

Section.

1. Trustees, appointment.
2. organization and general powers.
3. to set apart portion of cemetery for public burial-place, lay out cemetery, etc.
4. may grant rights of burial, etc.
5. Proceeds of sales of lots, etc., how applied.

Trustees, ap-
pointment.
R. O. p. 131.

organization
and general
powers.
R. O. p. 131.

to set apart a
portion of ceme-
tery for public
burial-place,
lay out ceme-
tery, etc.
R. O. pp. 131,
132.

may grant
rights of burial,
etc.
R. O. p. 132.

Section.

6. Grants, bequests, etc., in trust for care of lots, trustees may hold.
7. Investments, etc., of funds so received.
8. Responsibility of city for execution of trusts, etc.
9. City registrar to be secretary of board; his duties.
10. Deeds of lots, form and execution of.
11. Annual report.

SECTION 1. There shall be annually appointed by the mayor, subject to confirmation by the board of aldermen, five trustees of the Mount Hope Cemetery, two of whom at least shall be owners of lots in said cemetery.

SECT. 2. The persons so appointed shall constitute a board of trustees of the Mount Hope Cemetery, and the said board shall annually on the first Monday in May meet and organize by the choice of one of their number as president. The said board shall have the sole care, superintendence, and management of the Mount Hope Cemetery, and may make such rules and regulations for their own government, and for the government of all subordinate officers by them appointed, as they may deem expedient. A majority of the whole board shall be necessary to constitute a quorum for the transaction of business.

SECT. 3. The said board shall set apart and appropriate a portion of said cemetery as a public burial-place for the use of the inhabitants of the city of Boston, free from any charge therefor; and they shall lay out said cemetery, in suitable lots or other subdivisions, for family or other burial-places, with all the necessary paths and avenues, and may plant and embellish the said cemetery with trees, shrubs, flowers, and other rural ornaments; and they may enclose and divide the same with proper fences, and may erect or annex thereto such suitable edifices, appendages, and conveniences, as they may from time to time deem expedient; and said board may, in the execution of their trust, make all necessary by-laws, rules, and regulations, not inconsistent with the ordinances of the city or the statutes of the commonwealth, as they may deem expedient.

SECT. 4. The said board shall have authority to grant and convey to any person or persons, by deed duly executed, the sole and exclusive right of burial and of erecting tombs, cenotaphs, and other monuments in any of the designated

Lots or subdivisions of said cemetery, upon such terms and conditions as they may by their rules and regulations prescribe.

SECT. 5. The proceeds of the sale of lots and of rights of burial in said cemetery shall be paid into the city treasury, separate from any other funds of the city and subject to the order of said board, and shall be devoted to the liquidation of all amounts paid by the city on account of said cemetery, either for land or for the improvement and embellishment thereof, under the direction of said board, who shall also have the control of any appropriation which may be made for the cemetery by the city council.

Proceeds of sales of lots, etc., how applied.
R. O. p. 132.

SECT. 6. The said board are authorized to take and hold any grant, donation, bequest, or deposit that may be made upon trust to apply the same, or the income thereof, for the improvement or embellishment of the said cemetery or for the erection, repair, preservation, or renewal of a monument, fence, or other erection therein; or for the planting or cultivation of trees, shrubs, or plants in and around a lot; or for improving the said cemetery in any other manner or form consistent with the purposes for which it was established. And when such a grant, donation, bequest, or deposit is made by the proprietor of a lot in said cemetery for the annual repair, preservation, or embellishment of such lot and of the erections thereon, the said board may give to such proprietor, or to his representative, an agreement or obligation, in such form and upon such terms and conditions as they may establish, binding themselves and their successors to preserve and keep said lot in repair forever or for such period as may be agreed on.

Grants, bequests, etc., in trust for care of lots, trustees may hold.
R. O. p. 132.

SECT. 7. All sums of money so received by said board shall be invested by the city treasurer in public stocks or in mortgages of real estate, and shall always remain separate from, and independent of, any other moneys or property belonging to the city, and free from the control of the city council. And the income of such fund or funds shall be received by the city treasurer, subject to the order of the said board, and shall be appropriated by them in such manner as will, in their opinion, best promote the purposes for which such grants, donations, bequests, or deposits were made.

Investment, etc. of funds so received.
R. O. pp. 132, 133.

SECT. 8. The city shall be responsible for the good faith of said board and of the city treasurer, in the execution of any trust which they may assume pursuant to the foregoing provisions; but the said board shall not be liable to renew a monument or other erection on a lot in said cemetery, unless such liability is expressed in the agreement under which they accept the grant, donation, bequest, or deposit for the repair or preservation of such lot.

Responsibility of city for execution of trusts, etc.
R. O. p. 133.

City registrar to
be secretary of
board; his
duties.
R. O. p. 133.

SECT. 9. The city registrar shall act as secretary of said board; shall receive all applications for lots and for rights of burial; shall, under the direction of the said board, make all deeds of said lots and rights; shall pay to the city collector all sums of money received on account of the cemetery; and shall perform such other duties in relation to the cemetery as the said board may from time to time require.

Deeds of lots,
form and execu-
tion of.
R. O. p. 133.

SECT. 10. Every deed of a lot in said cemetery shall be in such form as such board shall prescribe and the corporation counsel approve, shall be signed by the chairman of said board and countersigned by the secretary thereof and by the city treasurer, shall have the city seal affixed thereto, and shall be recorded by the city registrar in a book provided for the purpose and kept in his office.

Annual report.
R. O. p. 133.

SECT. 11. Said board shall annually in January submit to the city council a report in print, made up to and including the last day of the preceding December, and containing a statement of the condition of the cemetery and an account in detail of the receipts and expenditures during the year.

NOTES.

The ordinances contained in this chapter are authorized by St. 1849, c. 150.

Cemetery annexed to Boston by St. 1872, c. 197.

The general statute provisions with regard to cemeteries are P. S. c. 82; St. 1883, cc. 142, 262; St. 1885, c. 302.

SECTION 1. The manner of appointing and removing the trustees and their subordinates is fixed by St. 1885, c. 266, §§ 1, 5.

SECTS. 3-5. By-laws similar to these have been held not to create a trust or contract which can be enforced against the city by owners of lots. *Fay v. Milford*, 124 Mass. 79.

CHAPTER 48.

OF THE REGULATION OF BUILDING.

Section.	Section.
1. Building limits defined.	6. Wooden buildings, alterations.
2. Wooden buildings outside said limits, restrictions on erection.	7. permits for erection or alteration, etc.
3. Restrictions not to apply in certain cases.	8. Penalty for violation of preceding sections.
4. Wooden buildings, foundations.	9. Notices of intention to build, etc.
5. posts, girts, plates and studding.	10. Number of assistant inspectors of buildings.

SECTION 1. The limits within which all buildings hereafter erected shall be required to conform to the provisions of chapter three hundred and seventy-four of the statutes of the commonwealth of the year eighteen hundred and eighty-five, and of the acts in amendment thereof and in addition thereto, are hereby established and defined as follows: All that portion of the city which is included within a line beginning at the intersection of the centre lines of Dover and Albany streets, and thence running east through the centre of said Dover street to the harbor commissioners' line; thence by the said harbor commissioners' line around the northerly portion of the "city proper" to a point on Charles river at the intersection of said line with the boundary line between Brookline and Boston; thence along said boundary line to the centre of Longwood avenue; thence through the centre of said avenue to the centre of Bumstead lane; thence through the centre of said lane to the centre of Ward street; thence through the centre of said Ward street to the centre of Parker street; thence through the centre of said Parker street to the centre of Ruggles street; thence through the centre of said Ruggles street to the centre of Washington street; thence through the centre of said Washington street to a point opposite the centre of Palmer street; thence through the centre of said Palmer street and through the centre of Eustis street to the centre of Hampden street; and thence through the centre of said Hampden street and the centre of Albany street to the point of beginning; the said district being shown on a plan made by the city surveyor, dated June 28, 1881, and deposited in his office.

Building limits defined.
R. O. pp. 134 and 135.

SECT. 2. Outside the limits defined in the preceding section wooden buildings may be erected, subject to the following restrictions and regulations:—

Wooden buildings outside said limits, restrictions on erection.
R. O. pp. 135, 136.

A wooden building, to be used as a dwelling-house, shall not exceed a height of forty-five feet, and the external side-walls of said building shall not be placed at a less distance

than one foot and six inches from the line of the lot upon which the building is to be located, unless a brick external wall is substituted for wooden wall, and of a thickness prescribed by statute law regulating the erection of brick external walls. The brick walls above required shall be built up to the under side of the roof-covering, which shall be laid and embedded in mortar upon the walls.

Where a wooden building is already erected for dwelling purposes upon an adjoining lot, there shall be between the walls of the building erected and the one to be erected, if of wood, a clear open space of three feet between the said buildings.

Wooden ells may be erected in connection with wooden buildings used for dwelling purposes, but the ell shall not exceed thirty feet in length, fifteen feet in width, nor be of a greater height than twenty-five feet, or of any other dimension not in excess of the superficial area of four hundred and fifty square feet. Such ells may be built without the intervention of a brick wall between said ell and the main building.

In the erection of wooden buildings in blocks of two or more houses, to be occupied for dwelling purposes, the said buildings shall have intercepting brick walls not less than eight inches thick; said brick walls to be carried up and topped out twelve inches above the roof, and covered with metallic covering.

Wooden buildings to be used for other purposes than that of a dwelling-house, shall not exceed a height of fifty-five feet from the grade of the street, court, or place upon which the said building is to be erected; and, if in a range of more than fifty feet, there shall be constructed an intercepting brick wall, not less than twelve inches thick and carried up to a height of twelve inches above the roof, and the said wall to be covered with metallic covering.

A wooden building to be used for any purpose other than that of a dwelling-house shall not be erected or placed at a less distance than ten feet from any other wooden building which is twenty-five feet or more in height, or at a less distance than four feet from any other wooden building which is less than twenty-five feet in height.

In no case shall the sills of any building referred to in this section be laid below the grade of the street, unless by special permit of the inspector of buildings.

Restrictions not
to apply in cer-
tain cases.
R. O. p. 136.

SECT. 3. The restrictions contained in the preceding section shall not apply to buildings erected or placed at a distance of fifty feet or more from any other building, and from any street, open or intended to be open for public passage, whether accepted by the city or not.

Foundations of
wooden build-
ings.
R. O. p. 136.

SECT. 4. All wooden buildings shall be built upon secure foundations of stone or brick, carried up to the surface of the ground. The foundation, if of brick, shall not be less

than twelve inches thick, and laid in cement mortar; if of rubble-stone, it shall not be less than sixteen inches thick, when laid in cement mortar, and not less than twenty inches thick, when laid dry; if of block stone, it shall be not less than sixteen inches thick and laid in cement mortar. All foundations shall be laid upon solid ground not less than four feet below the surface which is exposed to frost, or upon piles or other solid substructure. Piles shall be driven to a firm and solid bearing, and the tops of all piles shall be cut off at or below a grade to be prescribed by the inspector of buildings. There shall be at least one row of piles, spaced not over three feet on centres, in the direction of the length of the wall. Piles shall be capped with footing-courses of stone. In the construction of workshops or other buildings of a like character or for temporary purposes, built upon soft or marshy land, the inspector may, in his discretion, permit the sills to be placed upon mud-sills or blocking, or upon piles cut to height of grade.

SECT. 5. All wooden buildings shall be built with posts, girts, and plates, properly mortised, tenoned, braced, and pinned in each story, and supported by suitable studding, the studs to be not more than thirty-two inches apart, the posts and girts to be not less than four by eight inches, or equivalent thereto, except that the foregoing dimensions for posts and girts shall not apply to buildings not exceeding four hundred feet in area, and less than fifteen feet in height.

Posts, girts, plates, and studding of such buildings.
R. O. p. 137.

SECT. 6. No wooden building now erected, or hereafter to be erected, shall be altered, raised, roofed, enlarged, or otherwise built upon, in any manner contrary to the terms of the five preceding sections.

Alterations of such buildings.
R. O. p. 137.

SECT. 7. No wooden building shall hereafter be erected without a permit being first obtained from the inspector of buildings; and no alteration of or addition to any such building shall be made without such permit.

Permits for erection or alteration of such buildings.
R. O. p. 137.

SECT. 8. Whoever violates any of the provisions of the seven preceding sections, and neglects for twenty-four hours, after written notice from the inspector of buildings, served upon him personally, or posted conspicuously upon the building erected or in process of erection, alteration, or repair, in violation of said provisions, to alter said building in conformity with the provisions of this chapter, shall be liable to a penalty of not less than twenty nor more than fifty dollars, and to a like penalty for every day's continuance of such violation.

Penalty for violation of preceding sections.
R. O. pp. 137, 138.

SECT. 9. Whoever intends to erect or to make alterations in a building of any description, within ten feet of a public street of the city, shall, fifteen days at least before he proceeds to build or erect the same, or to lay the foundation thereof, or to make the said alterations, or to do any act

Notices of intention to build, etc.
R. O. p. 138.

for carrying into execution his intention to do such things, give to the inspector of buildings, notice in writing of his intention, with the dimensions of the structure proposed, the materials to be used, the number on the street or the precise location, and the name of the owner or owners of the land, in order that any encroachment or other injury or inconvenience to the public streets which might otherwise happen, may be thereby prevented; and in default thereof the city shall be discharged from all damages, of any nature whatsoever, resulting from the failure to give notice as above provided, particularly from all such damages or expenses as have been enhanced or occasioned by reason of anything done previously to or without such notice.

Number of
assistant in-
spectors of
buildings.
R. O. p. 138.
Ord. 1883, c. 9.

SECT. 10. The number of assistant inspectors of buildings provided for in section three of chapter three hundred and seventy-four of the statutes of the commonwealth of the year eighteen hundred and eighty-five shall be sixteen.¹

¹ Amended to "twenty" by an ordinance approved March 30, 1886.

NOTES.

The provisions of Rev. Ord. of 1883 with reference to hoistways and elevators (R. O. c. 43, §§ 1-4) are incorporated in St. 1885, c. 374, §§ 107, 108, 109, and 110, but the city council retains the power to further regulate the same by ordinance pursuant to St. 1882, c. 252, § 1, which is not repealed by St. 1885, c. 374, § 147; those relating to chimneys and flues (R. O. c. 43, § 9) are incorporated in St. 1885, c. 374, §§ 70-79. As to liability of the owner or occupant of a building to a policeman for injuries received by the latter while inspecting the premises, by reason of an unguarded elevator-well, see *Parker v. Barnard*, 135 Mass. 116.

The first section of this chapter is authorized by St. 1885, c. 374, §§ 20, 21.

As to the constitutionality of the building act as an exercise of the police power, and as to the validity of such ordinances as are contained in this chapter, see *Salem v. Maynes*, 123 Mass. 372.

Sections 2-9, inclusive, are authorized by St. 1885, c. 374, § 20.

The principal act now in force, regulating the erection of buildings in the City of Boston, is St. 1885, c. 374, which repeals all the former acts upon the subject; but see also as to tenements and lodging-houses, St. 1885, c. 382.

The manner of appointing and removing the inspector and his assistants is determined by St. 1885, c. 374, §§ 2, 3; the number of assistants is to be determined by ordinance. St. 1885, c. 374, § 3.

It was intimated by Chief-Justice Gray, in *Quinn v. Morse*, 130 Mass. 317, 321, that the provisions of the old Prov. St. 1692, c. 13, relative to the building of party-walls in Boston, had never been repealed, and were still in force; but it has been since decided in *Wilkinson v. Jewett*, 139 Mass. 29, that those provisions have never been in force in the Commonwealth.

The provisions of the Public Statutes affecting the erection and inspection of buildings are to be found in P. S. c. 104, and P. S. c. 101, §§ 1-5. See also St. 1882, c. 208; and St. 1882, c. 266; St. 1883, c. 251.

The following statutes relate to and regulate the erection of stables: P. S. c. 102; §§ 38, 39; St. 1810, c. 124; St. 1860, c. 109; St. 1869, c. 369; St. 1878, c. 192.

CHAPTER 49.

OF THE REGULATION OF PLUMBING.

Section.	
1.	Plumbers to be registered, etc.
2.	Proposed work to be approved.
3.	Buildings to be separately connected with sewer, etc.
4.	Construction of drain and soil-pipes.
5.	Rain-water leaders to be trapped.
6.	Sewer, soil-pipe, and waste-pipe ventilators regulated.
7.	Iron pipes,—testing, coating, joints and connections.
8.	Sinks, bath-tubs, water-closets, etc., trapping and air-pipes.
9.	Drip or overflow pipes.

Section.	
10.	Waste-pipes from refrigerators, etc.
11.	Water-closets to be supplied with tanks, except, etc.
12.	Fixtures to be open to view until inspected, etc.
13.	Plumbing not to be used until tested.
14.	Steam-exhausts not to connect with sewers.
15.	Waste-pipes exposed to frost to be packed and cased.
16.	Grease-traps to be placed under certain sinks.
17.	Provisions of this chapter, how applied.

SECTION 1. No person shall carry on the business of **Plumbers to be registered, etc. Ord. 1883, ch. 3, § 1.** plumbing unless he shall have first registered his name and place of business in the office of the inspector of buildings; and notice of any change in the place of business of a registered plumber shall be immediately given to said inspector.

SECT. 2. Every plumber, before doing any work in a building, shall, except in the case of the repair of leaks, file **Proposed work to be approved, etc. Ibid. § 2** at the office of the said inspector, upon blanks to be provided for the purpose, a notice of the work to be performed: and no such work shall be done in any building without the approval of said inspector.

SECT. 3. Every building shall be separately and independently connected with the public sewer, when such sewer is provided; and, if such sewer is not provided, with a brick and cement cesspool of a capacity to be approved by the said **Buildings to be separately connected with sewer, etc. Ibid. § 3.** inspector.

SECT. 4. Drains and soil-pipes through which water and sewage is used and carried shall be of iron, when within a building, and for a distance of not less than five feet outside of the foundation walls thereof. They shall be sound, free from holes and other defects, of a uniform thickness of not less than one-eighth of an inch for a diameter of four inches or less, or five thirty-seconds of an inch for a diameter of five or six inches, with a proportional increase of thickness for a greater diameter. They shall be securely ironed to walls, laid in trenches to uniform grade, or suspended to floor-timbers by strong iron hangers, as the said inspector may direct. They shall be supplied with a suitable trap, placed, with an accessible clean-out, either outside or inside the foundation wall of the building. They shall have a proper fall towards the drain or sewer, and soil-pipes shall be carried **Construction of drain and soil-pipes. Ibid. § 4.**

out through the roof, open and undiminished in size, to such height as may be directed by the said inspector; but no soil-pipe shall be carried to a height less than two feet above the roof. Changes in direction shall be made with curved pipes, and connections with horizontal pipes shall be made with Y branches.

Rain-water
leaders to be
trapped.
Ord. 1883, c. 3,
§ 5.

SECT. 5. Rain-water leaders, when connected with soil or drain pipes, shall be suitably trapped.

Sewer, soil-pipe,
and waste-pipe
ventilators regu-
lated.
Ibid. § 6.

SECT. 6. Sewer, soil-pipe or waste-pipe ventilators shall not be constructed of brick, sheet-metal, or earthen-ware, and chimney-flues shall not be used as such ventilators.

Iron pipes, —
testing, coating,
joints, and con-
nections.
Ibid. § 7.

SECT. 7. Iron pipes, before being put in place, shall be first tested by the water or kerosene test, and then coated inside and out with coal-tar pitch, applied hot, or with paint, or with some equivalent substance. Joints shall be run with molten lead, and thoroughly calked and made tight. Connections of lead pipes with iron pipes shall be made with brass ferrules, properly soldered and calked to the iron.

Sinks, bath-
tubs, water-
closets, etc.,
trapping and
air-pipes.
Ibid. § 8.

SECT. 8. Every sink, basin, bath-tub, water-closet, slop-hopper, and each set of trays, and every fixture having a waste-pipe, shall be furnished with a trap, which shall be placed as near as practicable to the fixture that it serves. Traps shall be protected from siphonage or air-pressure by special air-pipes of a size not less than the waste-pipe; but air-pipes for water-closet traps shall be of not less than two-inch bore for thirty feet or less, and of not less than three-inch bore for more than thirty feet. Air-pipes shall be run as direct as practicable, and shall be of not less than four-inch bore where they pass through the roof. Two or more air-pipes may be connected together or with a soil-pipe; but in every case of connection with a soil-pipe such connection shall be above the upper fixture of the building.

Drip or overflow
pipes.
Ibid. § 9.

SECT. 9. Drip or overflow pipes from safes under water-closets and other fixtures, or from tanks or cisterns, shall be run to some place in open sight, and in no case shall any such pipe be connected directly with a drain, waste-pipe, or soil-pipe.

Waste-pipes
from refriger-
ators, etc.
Ibid. § 10.

SECT. 10. Waste-pipes from refrigerators, or other receptacles in which provisions are stored, shall not be connected with a drain, soil-pipe, or other waste-pipe, unless such waste-pipes are provided with traps, suitably ventilated, and in every case there shall be an open tray between the trap and refrigerator.

Water-closets to
be supplied with
tanks, except,
etc.
Ibid. § 11.

SECT. 11. Every water-closet, or line of water-closets, on the same floor, shall be supplied with water from a tank or cistern, and the flushing-pipe shall not be less than one inch in diameter; but this requirement shall not apply to water-closets substituted for vaults, where the same are located outside of the building proper, and water-closets may be arranged so as to receive their supply directly from the

CHAPTER 50.

OF THE WEIGHING AND INSPECTION OF VESSELS AND BALLAST.

Section.

1. Weighers and inspectors, appointment.
2. Chief weigher and inspector, duties.
3. Assistant weighers and inspectors, duties.
4. Office and office-hours of weighers and inspectors.
5. Stones, ballast, etc., to be inspected, except, etc.
6. Mode of inspection.
7. Penalty for hindering a weigher and inspector.
8. Certificates of weights and inspection; records to be kept.
9. Form of accounts and certificates.

Section.

10. Vessels once weighed not again subject to charge, except, etc.
11. Masters with ballast for sale to report arrival; to produce certificates, etc.
12. Penalty for delivering ballast without inspection, or altering or counterfeiting marks.
13. Fees for weighing ballast.
14. Officers and agents of city not to purchase ballast unless weighed, etc.
15. This chapter not to apply to material for main drainage works.

Weighers and inspectors, appointment.
R. O. p. 139.

SECTION 1. There shall be annually appointed by the mayor, subject to confirmation by the board of aldermen, one chief and three assistant weighers and inspectors of vessels and ballast, all of whom shall be sworn to the faithful discharge of their duties. No person shall be chosen to either of said offices, or, having been so chosen, shall continue to fill the same, if he is the owner or agent of, or has any interest in, a vessel engaged in the transportation of stone, gravel, sand, or other ballast, or if he has stone, gravel, sand, or other ballast for sale.

Chief weigher and inspector, duties.
R. O. p. 139.

SECT. 2. The chief weigher and inspector shall remain in the office mentioned in section four during the time when said office is required by said section to be kept open; shall receive all orders for the services of weighers and inspectors; shall depute the assistant weighers and inspectors to perform such services; and shall keep full and true accounts of the official transactions of the weighers and inspectors and of all money received and expended by them by virtue of their office, and shall report the same, quarterly, to the city council in January, April, July, and October.

Assistant weighers and inspectors, duties.
R. O. pp. 139, 140.

SECT. 3. The assistant weighers and inspectors shall perform, under the general direction of the chief weigher and inspector, all such services as weighers and inspectors of vessels and ballast are required to perform by the statutes of the commonwealth and by this chapter, and which are not herein especially required to be performed by the chief weigher and inspector; and they shall on each day account for and pay over to the chief weigher and inspector all fees received by them for their services; and such fees, after deducting therefrom the necessary expenses of the office, shall be divided,

Form of
accounts and
certificates.
R. O. p. 141.

SECT. 9. The accounts to be kept by said weighers and inspectors, and the certificates to be given by them, shall specify the name of the vendor; the kind of material, whether sand, gravel, or other ballast; the weight and the deduction of light-water marks; the amount of fees received; and the date when the certificate is given.

Vessels once
weighed not
again subject to
charges, except,
etc.
R. O. p. 141.

SECT. 10. No vessel, which has once been weighed and marked according to law by a weigher of the city of Boston, shall be subject to a charge for a second weighing or marking, unless it appears that her former weight or marks are incorrect or have been changed; but every vessel, which has once been so weighed and marked, shall be subject to the examination and inspection of every weigher and inspector, without charge, for the purpose of ascertaining whether its weight and marks are correct, or have been altered.

Masters with
ballast for sale
to report arrival;
to produce cer-
tificate, etc.
R. O. p. 141.

SECT. 11. The master of every vessel that has stones, sand, gravel, or other ballast for sale, shall, on arrival, report himself at the office of the said weighers and inspectors, and shall produce for examination the certificate of the marks and measurements of his vessel, whenever the same is demanded by a weigher and inspector. In case of neglect or refusal so to produce the certificate he shall be subject to a penalty of not more than fifty dollars.

Penalty for de-
livering ballast
without inspec-
tion, or altering
or counterfeiting
marks.
R. O. p. 141.

SECT. 12. Whoever, when an inspection is required by this ordinance, delivers stones, gravel, sand, or other ballast, sold by weight, from a vessel which has not been weighed, marked, and inspected as before provided, or which has not been weighed and marked under previous statutes or ordinances, and whoever alters or counterfeits the marks or certificate of a vessel, shall for every such offence be subject to a penalty of not more than three hundred dollars.

Fees for inspect-
ing ballast.
R. O. p. 141.

SECT. 13. The fee for inspecting the weight of stones, sand, gravel, or other ballast, shall be five cents for every ton inspected and delivered, which fee shall in all cases be paid by the vendor, and shall be repaid to him by the vendee.

Officers and
agents of city
not to purchase
ballast unless
weighed, etc.
R. O. p. 141.

SECT. 14. No officer or agent of the city shall purchase stones, gravel, sand, or other ballast for the city, or make any contract therefor, or accept the delivery of the same, unless such material has been, or before the delivery thereof shall be, weighed and inspected according to the provisions of this chapter and a certificate of such weighing and inspection given as is hereinbefore provided; and no bill against the city, arising out of or connected with any such purchase, shall be approved or allowed by any board or officer, passed by the city auditor, or paid by the city treasurer, unless a certificate as aforesaid accompanies such bill.

This chapter not
to apply to mate-
rial for main
drainage works.
R. O. pp. 141,
142.

SECT. 15. The provisions of this chapter shall not apply to the purchase or delivery of material used in the construction of the improved system of sewerage; but the city engi-

neer shall cause accurate records of the inspection of all such material to be kept in as full a manner as is required by this chapter.

NOTES.

The statute provisions relative to the subject of this chapter are to be found in P. S. c. 69, §§ 13-22, and St. 1848, c. 308.

The offices of chief and assistant inspectors and weighers are established by ordinance under the authority of St. 1848, c. 308, § 1. The manner of appointing and removing them is determined by St. 1885, c. 266, § 1. If the assistants were by ordinance made "subordinates" of the chief, their manner of appointment and removal would be determined by St. 1885, c. 266, § 5.

As to the authority and liability of weighers of vessels, see *Commonwealth v. Woods*, 11 Met. 59.

See also *Mitchell v. Tibbetts*, 17 Pick. 298.

CHAPTER 51.

OF EXPLOSIVE COMPOUNDS.

Section.

1. Penalty for sale of guns, pistols, cartridges, etc., to children.
2. Certain licenses to contain copy of section one.
3. Proceedings on applications for licenses to manufacture.
4. Same subject.
5. Manufacture of, prohibited in certain localities.
6. Licenses for sale of, how granted.
7. Amounts allowed to be kept for sale.
8. To be stored in suitable places and kept separate.

Section.

9. Magazines for [storage may be licensed.
10. Restrictions on sale or storage in certain localities.
11. Transportation regulated.
12. Premises of persons licensed may be examined, etc.
13. Licenses may be revoked, etc.
14. Fine for breaches of sections 3-15, and disposal of.
15. "Explosive compounds" defined.

Penalty for sale of guns, pistols, cartridges, etc., to children.
R. O. p. 143.
Ord. 1884, c. 4.

SECTION 1. Whoever sells to a child under the age of sixteen years, without the written consent of its parent or guardian, any cartridge or fixed ammunition of which any fulminate is a component part, or a gun, pistol, or other mechanical contrivance arranged for the explosion of such cartridge or of any fulminate, shall be liable to a penalty of not less than five nor more than fifty dollars. But the provisions of this section shall not apply to paper-caps of which the only component parts are chlorate of potash and sulphide of antimony, nor to any appliance for exploding the same.

Certain licenses to contain copy of section 1.
R. O. p. 143.

SECT. 2. A copy of the preceding section shall be inserted in all licenses granted for the sale of gunpowder.

Proceedings on applications for licenses to manufacture.
R. O. p. 143.

SECT. 3. Whoever desires to manufacture an explosive compound within the limits of the city shall make application in writing to the board of aldermen for a license therefor, setting forth in such application the exact location of the land and the construction of the buildings where such manufacture is to be conducted, and a general description of the articles intended to be manufactured, the method of manufacturing them, and the amount proposed to be manufactured. Such application shall be referred to the boards of fire commissioners and of police, who shall cause examinations of the place or building described in such application to be made by suitable persons appointed for that purpose by said boards respectively.

Same subject.
R. O. pp. 143, 144.

SECT. 4. If the report of such examiners is in favor of granting the license, the board of aldermen shall give a public hearing to all remonstrants, after public notice of said hearing has been given for two consecutive weeks in at least three daily newspapers published in the city, and the said board, after such notice and hearing, may, by a two-thirds vote and with the approval of the mayor, grant a license to the appli-

cant for the manufacture of the explosive compound at a specified place, with such limitations as to the quantity to be manufactured, and as to the mode of storing, keeping, or transporting the same, as may be prescribed by ordinance, or as the said board may in each case see fit to impose.

SECT. 5. No manufactory of explosive compounds shall be erected or maintained within the territory contained within the limits of the present wards 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 16, 17, 18, and 19.

Manufacture of, prohibited in certain localities.

R. O. p. 144.

SECT. 6. Whoever desires to keep an explosive compound for sale within the city may make application for a license therefor to the board of fire commissioners, who shall thereupon cause to be made by a suitable person an examination of the place where such explosive compound is to be kept for sale, and may grant the license if satisfied that such place conforms to the requirements of this chapter, and is not otherwise objectionable.

Licenses for sale of, how granted.

R. O. p. 144.

SECT. 7. The following shall be the greatest amounts of each class of explosive compounds which may be kept for sale in any place within twenty feet of a building which is regularly occupied during any portion of the day or night:—

Amounts allowed to be kept for sale.

R. O. p. 144.

Of nitro-glycerine and all compounds thereof and of gun-cotton four ounces.

Of detonators or exploders for use with any explosive compound other than gunpowder such number as shall contain in all one-half pound of the detonating compound employed.

Of any explosive compound not otherwise provided for, such amount, not exceeding ten pounds, as the board of fire commissioners may deem safe.

In case a person, licensed to keep explosive compounds is also licensed to keep gunpowder in the same building, or within fifty yards of it, the greatest amount of explosive compounds which he may keep shall be one-half of the above-named amounts.

SECT. 8. Every person licensed to keep explosive compounds for sale shall provide for the storage of such compounds a suitable place, in which each class of articles specified in section seven shall be kept separate from every other class by suitable divisions or partitions of brick-work. No compound of nitro-glycerine shall be kept in any receptacle which is so constructed as to have exposed iron or steel in the interior thereof.

To be stored in suitable places and kept separate.

R. O. p. 144.

SECT. 9. Licenses to establish magazines for the storage of explosive compounds, in quantities greater than those mentioned in section seven, may be granted to manufacturers or dealers in the manner and on the conditions prescribed in sections three, four, and five for the establishment of manufactories of such compounds.

Magazines for storage may be licensed.

R. O. p. 144.

SECT. 10. No person shall keep explosive compounds for sale in a building or storehouse within three hundred feet of

Restrictions on sale or storage

in certain local-
ities.
R. O. pp. 144,
145.

a school-house, church, theatre, or hall licensed for public assemblies, nor within five hundred feet of the city hall, state-house, court-house, or county jail; and no magazine, such as is referred to in section nine, shall be allowed within six hundred feet of a dwelling-house occupied by persons not engaged in the manufacture of the explosive stored in such magazine, nor within one thousand five hundred feet of any of the buildings before specified. Every such magazine shall be surrounded by an earthen traverse ten feet thick at the top and with a natural slope to the bottom, and so high that a line drawn from the highest point of the explosive in store to top the of the parapet and wall will pass above the highest of the surrounding buildings.

Transportation
regulated.
R. O. pp. 145,
146.

SECT. 11. The transportation of explosive compounds through a street or way used by the public, but not including a steam railway, shall be allowed only on the following conditions: —

Nitro-glycerine, in any of its forms, shall be in a congealed state, and the packages in which it is contained shall, during transportation, be kept constantly packed in ice and in the charge of a competent agent furnished by the forwarder, who shall travel in the vehicle in which the packages are carried.

All dry nitro-glycerine compounds shall be packed in wooden cases, holding not more than one hundred pounds thereof, and in which the explosive compound shall be packed, when in bulk, with at least three inches of dry sawdust between the explosive compound and the inside surfaces of the case, and when in cartridges, each cartridge shall be surrounded with sawdust on all sides, and a space of at least one inch between the outside of each cartridge and the inside surface of the case, shall be filled with sawdust.

All gun-cotton shall be pulverized and in a compressed form and moist state.

All explosives of the fulminate class shall be wet and contained in wooden water-tight kegs, which shall be packed in sawdust in wooden packages.

All explosives of the nitrate-mixture class and chlorate-mixture class shall be subject to the same rules and regulations that are now or may hereafter be prescribed for the transportation of gunpowder.

All packages containing explosive compounds shall be plainly marked on at least three sides with the name of their contents, and the words "Explosive — Dangerous" so placed as to be readily seen by those who may have reason to handle such packages. The name and address of the manufacturer and forwarder shall also be plainly marked on the packages.

No detonating or percussion fuse, cap, primer, or other article liable to cause fire or explosion, shall be packed in the case or barrel containing an explosive compound, nor be

carried in or upon a vehicle in which such compound is being transported.

Not more than one case or barrel shall be transported in one vehicle, unless such vehicle has been suitably prepared by lining it with wood, felting, tarpaulin, oiled cloth, or other material, exclusive of iron or steel, and is fitted with a close cover of the same. No match, acid, petroleum, or other hazardous article shall be carried in the same vehicle with an explosive compound, and not over one hundred pounds of explosive compounds shall be carried in one vehicle. Same subject.

No two vehicles containing explosive compounds shall be allowed to approach within one thousand yards of one another, unless they are in charge of a qualified inspector detailed for that duty by the board of fire commissioners. Such inspector shall be detailed upon written application, and shall be paid for his services, by the person transporting such compound, at the rate of five dollars for each day or portion of a day.

SECT. 12. Any of the following-named officers may, at any time, enter the buildings or premises of a person licensed to sell explosive compounds, to examine and ascertain whether the laws, rules, and regulations relating thereto are strictly observed, namely, the members of the boards of fire commissioners and of police, the chief engineer and the assistant engineers of the fire department, the captains, lieutenants, and sergeants of police, and any other person duly empowered to make a special search of any particular building or buildings by written instructions signed by the mayor, or by a member of the board of fire commissioners or of the board of police. Any such written authorization shall be recorded in the department by which it was granted, and shall not be in force for more than forty-eight hours. Premises of persons licensed to sell may be examined, etc.
R. O. p. 146.

SECT. 13. Every license granted under this chapter shall be upon the condition that the board of aldermen may at any time suspend or revoke the same, with or without cause; and a violation of terms of a license by the person licensed shall work an immediate revocation of such license. Licenses may be revoked, etc.
R. O. p. 146.

SECT. 14. Whoever is guilty of a breach of any provision of this chapter, except the provisions of sections one and two, shall be liable to a penalty of not less than one nor more than fifty dollars, which, when recovered, shall be paid into the charitable fund of the police department mentioned in section ten of chapter twenty-six of these ordinances. Fines for breaches of sections 3-15, and disposal of.
R. O. p. 146.

SECT. 15. The words "explosive compound," as used in this chapter, shall be understood to include gun-cotton, nitro-glycerine, or any compound of the same, and any fulminate or substance, except gunpowder, which is intended to be used by exploding or igniting it in order to produce a force to propel missiles or to rend apart substances. "Explosive compounds" defined.
R. O. p. 146.

NOTES.

The provisions of this chapter are specially authorized by P. S. c. 102, §§ 59-61, 67. See also St. 1882, c. 272.

Further statute provisions relative to the manufacture, sale, and transportation of explosive compounds are to be found in P. S. c. 102, §§ 62-66, 78, 79, and in St. 1882, c. 269.

A definition of "explosive compound," similar to that contained in section 15, is given in P. S. c. 102, § 68.

General statute provisions relative to the storage and sale of gunpowder, camphene, and other inflammable oils, may be found in P. S. c. 102, §§ 54-58, 69-77.

Special statutes regulating the sale of gunpowder, fireworks, etc., in Boston, are to be found in St. 1782, c. 46; St. 1813, c. 143; St. 1833, c. 151; St. 1837, c. 99; St. 1841, c. 58; St. 1852, c. 262; St. 1853, c. 154.

See also Revised Ordinances of 1885, c. 52, "Of Petroleum, Camphene, and Burning Fluid."

It is perhaps desirable that section 1 of this chapter should be approved by the superior court or a justice thereof, and such approval entered and recorded in the office of the clerk of the superior court for civil business. See St. 1882, c. 272, and P. S. c. 27, § 21.

CHAPTER 52.

OF PETROLEUM, CAMPHENE, AND BURNING-FLUID.

Petroleum.

Section.

Petroleum.

1. Proceedings before granting licenses to manufacture, sell, store, etc.
2. Licenses to specify certain facts.
3. Duties, liabilities, etc., of licensees.
4. Licenses not to be granted in certain localities.
5. not to be granted for uninspected kerosene, etc.

Section.

6. Complaints for manufacturing, selling, etc., without license.

Camphene and Burning-Fluid.

7. Licenses for selling, storing, etc., how granted.
8. Penalty for selling or storing without license.

SECTION 1. No license for manufacturing, refining, mixing, storing, or keeping for sale an oil or fluid composed wholly or in part of any of the products of petroleum shall be granted pursuant to section seventy-three of chapter one hundred and two of the Public Statutes, unless the person desiring such license makes application in writing therefor to the board of aldermen, and states in such application the place, building, or part of a building, for which he desires the license, and whether he desires a license for manufacturing, refining, and mixing said articles or any of them, or for storing and keeping the same, or for all said purposes. Every such application shall be referred to the board of fire commissioners, who shall within one week examine the place or building described in the application, or cause the same to be examined by competent parties, and shall report in writing to the board of aldermen their opinion as to the propriety of granting the license applied for.

Proceedings before granting licenses to manufacture, store, etc.
R. O. p. 148.

SECT. 2. Every such license shall, when granted, contain the name of the person or persons licensed; a statement whether it is for manufacturing, refining, and mixing said articles, or any of them, or for storing and keeping them, or for all said purposes; a description of the place, building, or part of a building, for which the license is granted; and any limitations which the board of aldermen may in each case see fit to impose upon the quantity of said articles, or of any of them, which may be manufactured, refined, mixed, stored, or kept, or upon the manner of manufacturing, refining, mixing, storing, or keeping the same.

Licenses to specify certain facts.
R. O. p. 148.

SECT. 3. A person holding such a license may manufacture, refine, mix, store, or keep said articles, or any of them, according to the terms of his license, either on his own account or on account of any other person. Every person so licensed

Duties, liabilities, etc., of licensees.
R. O. pp. 148, 49.

shall allow any member of the board of fire commissioners, or any engineer of the fire department, or the inspector or inspectors of petroleum appointed by the mayor and aldermen, to enter the premises described in his license, and to take such samples of oils, and make such examinations of the premises as said engineers or inspectors may deem expedient. A violation of the terms of a license shall work a revocation of the same, and the board of aldermen may at any time revoke a license, without cause.

Licenses not to be granted in certain localities.
R. O. p. 149.

SECT. 4. No license shall be granted for manufacturing, refining, mixing, storing, or keeping said articles, or any of them, upon a street or wharf within the city; or in any part of a building occupied in whole or in part as a dwelling-house; or upon any floor of a building above the first floor; or upon such first floor, unless the foundations and walls of the building are of brick, stone, or iron, and the sills or walls are built without apertures for a space of at least one foot above such floor; and no license shall be granted for mixing, storing, or keeping crude petroleum, naphtha, or gasoline in any part of a building above the cellar, unless said articles are contained in metallic vessels securely closed.

not to be granted for un-inspected kerosene, etc.
R. O. p. 149.

SECT. 5. No license shall be granted for selling or keeping for sale at retail, for illuminating purposes, kerosene, refined petroleum, or any product of petroleum, which has not been inspected by an officer appointed for the purpose by the mayor and aldermen.

Complaints for manufacturing, selling, etc., without license.
R. O. p. 149.

SECT. 6. The chief engineer and assistant engineers of the fire department shall, under the direction of the board of fire commissioners, make complaint to the municipal court of the city of Boston for all violations of the provisions of section seven of chapter fifty-nine or of sections sixty-nine to seventy-five, inclusive, of chapter one hundred and two of the Public Statutes, and shall bring suits in the name of the mayor against all persons who manufacture, refine, mix, store, or keep for sale without proper license, any oil or fluid composed wholly or in part of the products of petroleum.

Camphene and Burning-Fluid.

Licenses for selling, storing, etc., how granted, etc.
R. O. pp. 149, 150.

SECT. 7. Whoever desires to obtain a license to sell or store camphene or burning-fluid shall make written application therefor to the board of fire commissioners, stating in such application the place or building in which he desires to sell or store said articles, and the manner in which he proposes to keep them, and the said board shall cause such premises to be examined and shall report to the board of aldermen their opinion of the safety of granting a license, and the board of aldermen may thereupon, if they deem it advisable, grant the license asked for, such license to continue in force from its date until the first day of April next

succeeding. Every person, at the time of receiving such a license, shall pay therefor the sum of one dollar.

SECT. 8. Whoever, without a license from the board of aldermen, keeps camphene or burning-fluid for sale, or stores it in a building within the city, shall be liable for each offence to a penalty of not less than one nor more than twenty dollars.

Penalty for selling or storing without license.
R. O. p. 150.

NOTES.

Petroleum.

SECTS. 1-6. The ordinances contained in these sections are specially authorized by P. S. c. 102, § 75, and by St. 1871, c. 280, § 61. The statute provisions for the appointment of inspectors of petroleum are to be found in P. S. c. 59, § 6. See also St. 1882, c. 250, and St. 1885, c. 98.

The manner of appointing and removing inspectors of petroleum is determined by St. 1885, c. 266, § 1. As to their compensation see *Brophy v. Marble*, 118 Mass. 548.

Camphene and Burning-Fluid.

SECTS. 7, 8. The authority to make ordinances regulating the storage and sale of camphene and similar fluids is given by P. S. c. 102, § 58, and by St. 1871, c. 280, § 61.

CHAPTER 53.

OF FIRE-ARMS, BONFIRES, AND BRICK-KILNS.

Section.	Section.
1. Discharging fire-arms, etc., prohibited.	3. Also making or firing brick-kilns, etc.; penalty.
2. Also bonfires on streets or wharves.	4. Also sale of cartridges, pistols, etc., to children.

Discharging fire-arms, etc., prohibited.
R. O. p. 151.

SECTION 1. No person shall fire or discharge a gun, fowling-piece, or fire-arm within the limits of the city, except at a military exercise or review duly authorized by the military authority of the commonwealth or by the city council or mayor of the city, or in the lawful defence of the person, family, or property of a citizen.

Also bonfires on streets or wharves.
R. O. p. 151.

SECT. 2. No person shall, without the license of the board of aldermen, make a bonfire or other fire in a street or on a wharf within the city.

Also making or firing brick-kilns, etc.; penalty.
R. O. p. 151.

SECT. 3. Whoever, without the license of the board of aldermen, erects, makes, or fires, or causes to be erected, made, or fired, within the city, a brick-kiln or lime-kiln, shall be liable to a penalty of not less than one nor more than fifty dollars, and to a like penalty for every week during which he maintains such kiln after notice to remove the same.

Also sale of cartridges, pistols, etc., to children.
R. O. p. 151.
Ord. 1884, c. 5.

SECT. 4. No person shall sell to any child under the age of sixteen years without the written consent of a parent or guardian of such child, any cartridge or fixed ammunition of which any fulminate is a component part, or any gun, pistol, or other mechanical contrivance arranged for the explosion of such cartridge, or of any fulminate. But the provisions of this section shall not apply to paper caps of which the only component parts are chlorate of potash and sulphide of antimony, nor to any appliance for exploding the same. The provisions of this section shall be inserted in every license granted for the sale of gunpowder.

NOTES.

SECT. 2. See similar provisions in. P. S. c. 206, § 12.

SECT. 4. Authorized by St. 1882, c. 272. See St. 1884, c. 76.

CHAPTER 54.

OF HAY-SCALES AND THE SALE OF HAY.

Section.

1. Stands for sale of hay and straw to be designated.
2. Scales for weighing hay, etc.

Section.

3. Weighers' duties.
4. Fees for weighing.

SECTION 1. The board of aldermen shall designate suitable places in the streets or squares of the city as stands for the sale of hay and straw, and the owner or driver of any vehicle containing hay or straw for sale, who stands for the sale of such hay or straw in any other place than one of those so appointed by the board of aldermen, shall be liable to a penalty of not more than fifty dollars.

Stands for sale of hay and straw to be designated; penalty. R. O. p. 152.

SECT. 2. The board of aldermen shall from time to time establish and order the superintendent of streets to have erected a sufficient number of public scales for the weighing of hay and of other articles, and he shall cause such scales to be furnished with decimal weights, which shall be used in all cases.

Scales for weighing hay, etc. R. O. p. 152.

SECT. 3. All weighers of hay that may be appointed pursuant to the statutes of the commonwealth shall attend personally, at the scales which may be assigned to them respectively, on every day in the year, Sundays and legal holidays excepted, from sunrise to sunset during the months of December, January, and February, and from seven o'clock in the forenoon until six o'clock in the afternoon during the remainder of the year; and they shall deliver to the driver of every load of hay or straw weighed by them a certificate, specifying the name of the owner or driver of the load, the town from which it has been driven, the weight and tare thereof, the amount of fees received, and the date when the certificate is given. They shall also keep in books furnished by the city clerk an account of all hay and other articles weighed at the scales to which they are assigned as aforesaid, which accounts shall specify all the items required to be specified as aforesaid in the certificates, and said books shall always be open to the inspection of said board and, when filled, shall be deposited with the city clerk.

Weighers' duties. R. O. p. 152.

SECT. 4. The fees for weighing on said hay-scales shall be as follows: one-half of a cent for every hundred pounds of coal, pig-iron, stone, or ice, and one cent for every hundred pounds of hay, straw, or other articles; but the fee for weighing an article other than hay or straw shall in no case be less than ten cents, and no fees shall be taken for weighing

Fees for weighing. R. O. pp. 152, 153.

done on account of the city. The cart or vehicle containing the article to be weighed and the other tare shall be weighed without any charge. Three-fifths of said fees shall be retained by the weighers to their own use, and the remaining two-fifths, less necessary expenses, shall be paid to the city collector.

NOTES.

The appointment of weighers of hay is provided for by P. S. c. 60, § 32. The manner of their appointment and removal is determined by St. 1885, c. 266, § 1.

The ordinances contained in this chapter are authorized by P. S. c. 60, § 33.

The earlier statute provisions corresponding to P. S. c. 60, §§ 32-34, were adopted (as required by P. S. c. 60, § 32) by order of the city council passed Aug. 20, 1850.

As to penalty for not using hay-scales in sale of hay, see P. S. c. 65, § 25. See also *Sawyer v. Smith*, 109 Mass. 220.

CHAPTER 55.

OF THE SALE OF JUNK, OLD METALS, AND SECOND-HAND ARTICLES.

Section.

1. Dealers in junk, etc., to be licensed.
2. To keep records of purchase, etc.
3. To put signs on shops.
4. Shops and merchandise may be examined.
5. Not to make purchases, etc., from minors, etc.

Section.

6. Not to sell articles within one week, unless, etc.
7. Hours when shops may be kept open.
8. Provisions of this chapter to be incorporated in all licenses.

SECTION 1. No person shall be a dealer in or the keeper of a shop for the purchase, sale, or barter of junk, old metals, or second-hand articles, unless he receives a license therefor from the board of police.

Dealers in junk, etc., to be licensed.
R. O. p. 154.

SECT. 2. Every keeper of a shop for the purchase, sale, or barter of junk, old metals, or second-hand articles, shall keep a book, in which shall be written, at the time of every purchase of any such article, a description thereof and the name, age, and residence of the person from whom, and the day and hour when, such purchase was made; and such book shall at all times be open to the inspection of the mayor, or either of the aldermen, and of any person by the board of aldermen authorized to make such inspection.

to keep records of purchases, etc.
R. O. p. 154.

SECT. 3. Every keeper of such a shop as is mentioned in the preceding section shall put in some suitable and conspicuous place on his shop a sign having his name and occupation legibly inscribed thereon in large letters.

to put signs on shops.
R. O. p. 154.

SECT. 4. Every such shop and all articles of merchandise therein may at all times be examined by the mayor, or either of the aldermen, or by any person authorized by the board of aldermen to make such examination.

shops and merchandise may be examined.
R. O. p. 154.

SECT. 5. No keeper of such a shop, unless he deals solely in second-hand books or furniture, shall directly or indirectly either purchase or receive by way of barter or exchange any junk, old metals, or second-hand articles, from a minor or apprentice, knowing or having reason to believe him to be such.

not to make purchases, etc., from minors, etc.
R. O. p. 154.

SECT. 6. No article purchased or received by the keeper of such a shop shall be sold until a period of at least one week from the date of its purchase or receipt has elapsed, unless the name and address of the person to whom such article has been sold, with such other facts as may be necessary to facilitate the tracing of such article, have been entered on the book mentioned in section two of this chapter.

not to sell articles within one week, unless, etc.
R. O. p. 154.

Hours when
shops may be
kept open.
R. O. p. 155.

SECT. 7. No keeper of such a shop shall have his shop open for the transaction of business, nor shall he purchase any of the aforesaid articles, except between sunrise and nine o'clock in the evening of any week day except Saturday, on which day such shop may be kept open and such articles purchased from sunrise until ten o'clock in the evening.

Provisions of
this chapter to
be incorporated
in all licenses.
R. O. p. 155.

SECT. 8. All the provisions of this chapter shall be incorporated in every license granted as mentioned in section one.

NOTES.

SECT. 1. The licenses mentioned in this section are authorized by P. S. c. 102, § 28. Certain other provisions relative to the form, etc. of the license are to be found in P. S. c. 102, §§ 124-127, and in St. 1882, c. 258.

SECTS. 2-7. These sections are specially authorized by P. S. c. 102, § 20.

SECT. 8. This section repeats the requirement of P. S. c. 102, § 30. The penalty for breaches of the provisions of this chapter is provided by P. S. c. 102, § 31.

CHAPTER 56.

OF THE SALE OF WOOD AND BARK.

Section.

1. Places for measuring and sale may be assigned.

Section.

2. Standing for sale of elsewhere prohibited.

3. Measurers, appointment, powers and duties.

SECTION 1. The board of aldermen may assign as many places for the measuring of wood and bark, brought into the city by land for sale, as they deem expedient; and they may assign places for the sale of such wood and bark.

Places for measuring and sale may be assigned.
R. O. p. 156.

SECT. 2. No person shall bring wood or bark into the city by land for sale, and stand for the sale thereof in any place other than in one of those assigned as aforesaid by the board of aldermen.

Standing for sale of elsewhere prohibited.
R. O. p. 156.

SECT. 3. The mayor shall annually appoint, subject to confirmation by the board of aldermen, not more than thirty-five measurers of wood and bark, who shall have all the powers and perform all the duties of such measurers, as mentioned in chapter sixty of the Public Statutes of the commonwealth.

Measurers, appointment, powers, and duties.
R. O. p. 156.

NOTES.

Various provisions relative to the sale of wood and bark are contained in P. S. c. 60, §§ 72-78.

SECTS. 1 and 2. These sections appear to be authorized by P. S. c. 60, § 76, last clause. As to their application and effect, see *Huntington v. Knox*, 7 Cush. 371.

SECT. 3. This section is authorized (if at all) by the last clause of P. S. c. 60, § 72, or by P. S. c. 60, §§ 76, 78.

The manner of appointment and removal of the measurers of wood and bark is determined by St. 1885, c. 266, § 1.

CHAPTER 57.

OF DOGS.

Section.

1. Penalty for owning or keeping barking, biting, or howling dogs.

Penalty for own-
ing or keeping
barking, biting,
or howling dogs.
R. O. p. 157.

SECTION 1. No person shall own or keep in the city any dog which by barking, biting, howling, or in any other manner, disturbs the quiet of any person. Whoever violates the foregoing provision shall be liable to a penalty not exceeding ten dollars.

NOTES.

As to the authority for this ordinance, see P. S. c. 102, §§ 109, 110.

The general statute provisions relative to dogs are contained in P. S. c. 102, §§ 80-110; St. 1884, c. 185; St. 1885, c. 292.

As to the validity and effect of similar ordinances, see *Commonwealth v. Chase*, 6 Cush. 248; *Commonwealth v. Dow*, 10 Met. 382.

CHAPTER 58.

OF NOTICES AND PLACARDS.

Section.

1. Placards, notices, etc., placing on fences, walls, or buildings, except, etc., prohibited.

Section.

2. also on sidewalks, trees, lamp-posts, or city buildings.

SECTION 1. No person shall post up or affix in any manner a placard, notice, or bill, either written or printed, upon a fence, wall, or building in the city, and no person shall paint, print, or write, or cause to be painted, printed, or written, a notice, advertisement, or bill, upon a fence, wall, or building in the city, unless he has previously obtained the consent of the person or persons having possession of such fence, wall, or building.

Placards, notices, etc., placing on fences, walls, or buildings, except, etc., prohibited.
R. O. p. 158.

SECT. 2. No person shall, without the consent of the mayor, post up or affix in any manner a placard notice, or bill, either written or printed, upon a curbstone, sidewalk, or tree in a street or public place in the city, or upon a wall, telegraph-pole, lamp-post, fence, or building belonging to the city, and no person shall, without such consent, paint, print, or write, or cause to be painted printed, or written, a notice, advertisement, or bill, upon a curbstone, sidewalk, or tree in a street or public place in the city, or upon a wall, telegraph-pole, lamp-post, fence, or building belonging to the city.

also on sidewalks, trees, lamps, posts, or city buildings.
R. O. p. 158.

NOTES.

The statutes also provide a penalty for the unauthorized posting, painting, etc., of show-bills, advertisements, etc. See P. S. c. 203, § 102.

As to the penalty for an unauthorized destruction or mutilation of show-bills, posters, etc., see P. S. c. 203, § 101; of legal notices, St. 1883, c. 156.

CHAPTER 59.

OF TRUANT CHILDREN.

Section.

1. Truants, etc., may be sent to the house of reformation.

Truants, etc.,
may be sent to
house of refor-
mation.
R. O. p. 159.

SECTION 1. Habitual truants and children between seven and fifteen years of age, who are found wandering about the streets and public places of the city, having no lawful occupation or business, not attending school, and growing up in ignorance, shall, upon conviction thereof, be committed, by the court or tribunal to which jurisdiction of such offences is given by the statutes of the commonwealth, to the "house of employment and reformation for juvenile offenders," which institution is hereby assigned and provided as a suitable place for the confinement, discipline, and instruction of such truants and children.

NOTES.

SECTION 1. This section is authorized by P. S. c. 48, §§ 10, 12. The statute provides that this section may be approved by the judge of the probate court for Suffolk county, as well as in the manner prescribed by P. S. c. 27, § 21. As to penalty for inducing children to truancy, see St. 1885, c. 71.

CHAPTER 60,
OF THE HARBOR-MASTER.

Section.	Section.
1. Harbor-master and assistants, appointment and duties.	2. Salary.

SECTION 1. There shall be annually appointed by the mayor, subject to confirmation by the board of aldermen, one person to be harbor master for the port of Boston, and ten persons to be assistant harbor-masters, who shall perform all the duties annexed to such position by law. Harbor-master and assistants, appointment and duties.

SECT. 2. The salary of the harbor-master shall be that of a captain of a police division; but it shall be diminished by all sums paid from the city treasury to the person holding office for services in any other capacity in any department of the city government. Salary.

NOTES.

The statute provisions relative to the subject of this chapter are P. S. c. 69, §§ 23-34; St. 1847, c. 234, § 5; St. 1848, c. 314; St. 1862, c. 64; St. 1882, c. 216; St. 1884, c. 173.

The manner of appointment and removal of the harbor-master and his assistants is determined by St. 1885, c. 266, §1.

CHAPTER 61.

OF HAWKERS AND PEDDLERS.

Section.

1. Board of health to record names and assign numbers.
2. Articles sold, how to be conveyed.
3. Vehicles, etc., to have names and numbers on, etc., and to be inspected.

Section.

4. Articles not to be cried to disturbance of peace.
5. Penalty for violation of above provisions.

Board of health to record names and assign numbers.
Ord. 1884, c. 7, § 1.

SECTION 1. Every hawker or peddler exposing for sale, or selling any of the articles enumerated in section one of chapter sixty-eight of the Public Statutes, shall record his name with the board of health, who shall assign him a number.

Articles sold, how to be conveyed.
Ibid. § 2.

SECT. 2. The said articles shall be so carried and conveyed that they shall not tend to injure or annoy the public health or comfort, and only in vehicles or receptacles which do not leak.

Vehicles, etc., to have names and numbers on, etc., and to be inspected.
Ibid. § 3.

SECT. 3. Every such vehicle or receptacle shall have the name and number of the person selling painted thereon in letters and figures at least two inches in size, shall be kept neat and clean within and without, and shall be submitted to the inspection of the board of health the first Monday in each month, at the city stables in North Grove street.

Articles not to be cried to disturbance of peace, etc.
Ibid. § 4.

SECT. 4. No person so exposing for sale, or selling, said articles shall cry his wares to the disturbance of the peace and comfort of the inhabitants of the city.

Penalty for violation of above provisions.
Ibid. § 5.

SECT. 5. Any person violating any of the provisions of this ordinance shall be punished by a fine not exceeding twenty dollars.

NOTES.

This ordinance is authorized by St. 1883, c. 168. The general provisions of law in relation to hawkers and peddlers are contained in P. S. c. 68, and St. 1883, c. 118.

CHAPTER 62.

OF THE SEALER OF WEIGHTS AND MEASURES.

Section.

1. Sealer and deputies, salaries.
2. To account for and pay over all fees.

Section.

3. To keep books, etc.
4. Annual report.

SECTION 1. The sealer and deputy sealers of weights and measures shall receive respectively, in full compensation for all services, the salaries provided for them in section one of chapter six of these ordinances. Sealers and deputies, salaries. Ord. 1883, c. 5, § 1.

SECT. 2. The sealer shall account to the city council in the manner provided by section eleven of chapter four of these ordinances, and shall each week pay to the city collector all fees received by him, or by his deputies, by virtue of their respective offices. To account for and pay over all fees. Ibid. § 2.

SECT. 3. The sealer shall, under the direction of the mayor, keep regular books, showing the work done in his department for which fees have been earned. Said books shall be furnished by and shall be the property of the city. To keep books, etc. Ibid. § 3.

SECT. 4. The sealer shall annually submit to the city council a printed statement of all receipts and expenditures in his department, during the year next preceding, of the work done, and of all the city property in his charge. Annual report. Ibid. § 4.

NOTES.

The general provisions of law in relation to sealers of weights and measures are contained in P. S. c. 65; St. 1882, c. 42; St. 1883, cc. 218, 225; St. 1884, c. 70. See also St. 1817, c. 50, as a special act applying to Boston.

A N O R D E R
OF THE
BOARD OF ALDERMEN,
FOR
CONSOLIDATING AND ARRANGING
THEIR
STANDING REGULATIONS.

ADOPTED FEB. 1st, 1886.

It is hereby ordered by the Board of Aldermen, as follows: —

CHAPTER 1.

GENERAL PROVISIONS.

Section.

1. Adoption and effect of regulations.
2. Acts done, rights accrued, penalties incurred, etc., not to be affected.
3. General penalty for breaches of regulations.

Section.

4. Words "street" and "streets" defined.
5. Publication of standing regulations.

Adoption and
effect of regula-
tions.
R. O. p. 160.

SECTION 1. The regulations contained in this chapter and in the nine succeeding chapters shall be known as the "Revised Standing Regulations" of the board of aldermen, and shall remain in force from year to year until they are amended or repealed. So far as their provisions are the same in effect as those of previously existing regulations, they shall be construed as continuations of those regulations, but, subject to the said limitation and to the provisions of the next section, all standing regulations of the board of aldermen, which have heretofore been in force, are hereby repealed.

Acts done,
rights accrued,
penalties in-
curred, etc., not
to be affected.
R. O. p. 160.

SECT. 2. These Revised Standing Regulations shall not have the effect of reviving any standing regulation heretofore repealed or superseded, nor shall they affect any act done, any right accrued, any penalty incurred, any suit, prosecution, or proceeding pending, or the tenure of office of any person holding office, at the time when they take effect.

SECT. 3. Whoever violates a provision of any standing regulation of the board of aldermen, whether included in these Revised Standing Regulations or hereafter enacted, shall, unless other provision is expressly made, be liable to a penalty of not more than twenty dollars for each offence.

General penalty
for breaches of
regulations.
R. O. p. 161.

SECT. 4. The words "street" and "streets," when used in a standing regulation of the board of aldermen, shall be construed as including alleys, lanes, courts, public squares, public places, and sidewalks, unless such construction would be inconsistent with the manifest intent of the regulation.

Words "street"
and "streets"
defined.
R. O. p. 161.

SECT. 5. All standing regulations of the board of aldermen shall, except when otherwise ordered, be published two weeks successively in three daily newspapers published in the city, such newspapers to be designated by the city clerk.

Publication of
standing regula-
tions.
R. O. p. 161.

NOTES.

SECTION 3. As to form of complaint for violation of an order of the board of aldermen, see St. 1886, c. 53, repealing P. S. c. 213, § 17, and St. 1885, c. 144.

CHAPTER 2.

OF CERTAIN SALARIES AND COUNTY MATTERS.

Section.

1. Care of county court-house.
2. Jail officers, salaries.

Section.

3. County auditor, salary.
4. Inspector of milk, salary.

Care of county
court-house.
R. O. p. 162.

SECTION 1. The superintendent of public buildings shall provide, from time to time, the necessary janitors, assistants, supplies, and materials for the county court-house.

Jail officers,
salaries.
R. O. p. 162.

SECT. 2. The yearly salaries of the officers connected with the county jail shall, until otherwise ordered, be as follows: The chief officer, thirteen hundred and fifty dollars; the steward and first inside officer, each not exceeding one thousand dollars; the other regularly employed officers, each not exceeding nine hundred dollars; the watchman and other necessary assistants not exceeding two dollars a day.

County auditor,
salary.
R. O. p. 162.

SECT. 3. The yearly salary of the auditor of the county of Suffolk shall be eight hundred dollars, the same to be in full for the services of the said auditor and for all clerical assistance.

Inspector of
milk, salary.
R. O. p. 162.

SECT. 4. There shall be one inspector of milk, whose yearly salary shall be eighteen hundred dollars.

NOTES.

SECT. 2. The salaries of the officers of the jail are fixed by the board of aldermen in their capacity of county commissioners. P. S. c. 22 § 30, c. 220, § 26. See *Adams v. County commissioners of Hampden*, 16 Gray, 41.

SECT. 3. This section is founded on P. S. c. 23, §§ 34, 35.

SECT. 4. See P. S. c. 57, § 2.

CHAPTER 3.

OF THE USE OF STREETS BY VEHICLES.

Section.

1. Carriages not to stand in certain positions.
2. Omnibuses to be driven only on regular routes.
3. not to be stopped except for passengers, etc.
4. Teamsters, manner of driving regulated.
5. Length of trucks, etc., limited.
6. Weight of loads limited.
7. Vehicles not to stand in streets, except, etc.
8. to be provided with bells when snow or ice is on the ground.
9. not to be stopped on cross-walks.
10. drivers to remain with, and not to snap whips.
11. not to be so placed as to obstruct passing vehicles, except, etc.

Section.

12. Vehicles to stand lengthwise with streets, etc.
13. Baiting or feeding horses in streets forbidden, except, etc.
14. Vehicles without horses not to be left in streets at night or on Sundays.
15. distance between, at crossings, etc.
16. No person to have the care of more than one vehicle.
17. Vehicles not to be driven against persons or other vehicles, etc.
18. not to be driven around corners except at a walk.
19. riding on, without permission, forbidden.
20. not to be driven over drawbridges faster than a walk.

SECTION 1. No owner, driver, or other person having charge of a hackney carriage shall stop his carriage in a street abreast of another carriage, nor so as to obstruct a street or a flag-stone or crossing thereof.

Carriages not to stand in certain positions.
R. O. p. 163.

SECT. 2. No owner or driver of an omnibus shall drive it, or permit it to be driven, on any route other than that designated therefor by the board of aldermen.

Omnibuses to be driven only on regular routes.
R. O. p. 163.

SECT. 3. No owner or driver of an omnibus shall stop it on any part of its route, unless called to take or leave a passenger, and then only for such time as is sufficient to enable the passenger to take his or her seat or to leave the omnibus.

Omnibus not to be stopped except for passengers, etc.
R. O. p. 163.

SECT. 4. Every driver or other person having the care and ordering of a truck, cart, wagon, sled, or dray, passing in or through the streets of the city, shall drive his horses or beasts at a moderate foot-pace, and shall hold the reins in his hands to guide and restrain such horses or beasts, or shall walk by the head of the shaft or wheel horse or beast, either holding or keeping within reach of the bridle or halter thereof.

Teams, manner of driving regulated.
R. O. p. 163.

SECT. 5. No truck or dray shall be used in the city the length whereof, from the end of the shaft to the extreme end of the side, shall be greater than twenty-four feet and six inches.

Length of trucks limited.
R. O. p. 163.

SECT. 6. No person shall cause to be carried on a truck, dray, or cart a load the weight whereof exceeds three tons, unless such load consists of an article which cannot be divided.

Weight of loads limited.
R. O. p. 163.

Vehicles not to stand in streets, except, etc.
R. O. p. 164.

SECT. 7. No owner, driver, or other person having the care or ordering of a vehicle shall suffer the same to stop in a street for more than five minutes without some proper person to take care of the same, nor for more than twenty minutes in any case; but the foregoing provision shall not apply to carriages of city officers at city buildings, or of physicians while visiting the sick, nor to the vehicles of market or provision men, who may stand for the purpose of selling provisions until eleven o'clock in the forenoon at such places in the city as the board of aldermen may designate.

to be provided with bells when snow is on the ground.
R. O. p. 164.

SECT. 8. No vehicle of any description shall be driven through any part of the city during any time that snow or ice is upon or covers the streets, unless there are three or more bells attached to the horse or horses or to some part of the harness thereof.

not to be stopped on crosswalks, etc.
R. O. p. 164.

SECT. 9. No owner, driver, or other person having the care of a vehicle, shall stop or place it at or near the intersection of two or more streets in such a manner as to cross a footway or flag-stone or to prevent foot-passengers from passing along a street in the direction or line of the footway or flag-stone on the side thereof; and any person who so places a vehicle and does not immediately, at the request of any person, cause the same to be removed, or who absents himself so that such request cannot be immediately made and complied with, shall be liable by reason thereof to an additional penalty.

Drivers of, to remain with them and not to snap whips.
R. O. p. 164.

SECT. 10. Every driver of a vehicle shall remain near it while it is unemployed or standing in a street, unless he is necessarily absent in the course of his duty and business, and he shall so keep his horse or horses and vehicle as not to obstruct the streets, and shall not, while waiting for employment, snap or flourish his whip.

not to be so placed as to obstruct passing vehicles, except, etc.
R. O. p. 164.

SECT. 11. No vehicle shall be so placed in a street as to prevent the passing of other vehicles, unless it is for a reasonable time, not exceeding six minutes, for the loading or unloading of coal, brick, or stone, or of heavy articles the weight of which in any one parcel or package is not less than six hundred pounds.

to stand lengthwise with the streets, etc.
R. O. p. 164.

SECT. 12. Every owner, driver, or other person having the care and ordering of a vehicle shall, when stopping in a street, place his vehicle, and the horse or horses connected therewith, lengthwise with the street and as near as possible to the sidewalk; and no more than one range of vehicles shall stand in a street which is not over thirty feet in width, and no more than one range on each side in a street which is of a greater width than thirty feet; and in squares and other open places vehicles shall be arranged by their owners or drivers in conformity with any directions of the board of aldermen or of any person thereto authorized by said board.

SECT. 13. No owner or driver of a vehicle shall, unless occupying a stand by license from the board of aldermen, bait or feed in a street a horse or beast connected with such vehicle; and no owner or driver of a vehicle, having a license to occupy a stand in a street, shall bait or feed his horse or beast in a street, except in a place designated by the board of police or by some person by them thereto authorized; nor unless the horse or beast, while being baited or fed, is under the care of some suitable person, and is properly secured to prevent it from getting beyond such person's control.

Baiting or feeding horses in streets forbidden, except, etc. R. O. p. 165.

SECT. 14. No vehicle without a horse harnessed thereto shall remain in a street during the night or on a Sunday, and any vehicle so left shall be removed by the city at the expense of its owners.

Vehicles without horses not to be left in streets at night or on Sundays. R. O. p. 165.

SECT. 15. No owner, driver, or other person having the care of a moving vehicle shall drive or place said vehicle, or the horse or horses or other animal or animals attached thereto, or shall cause such vehicle, horse, or animal to be driven or placed within ten feet of another vehicle in front of the same at a footpath or crossing of a street; and every such owner, driver, or other person shall, when requested by any police officer, stop his vehicle at any place in a street for the purpose of allowing persons on foot to cross such street in safety.

Distance between vehicles at crossings, etc. R. O. p. 165.

SECT. 16. No person shall be allowed to drive or have the care of more than one vehicle in the streets or public places of the city; and every vehicle with a horse or horses or other animal or animals harnessed thereto shall be under the care of some competent person.

No person to have the care of more than one vehicle. R. O. p. 165.

SECT. 17. No owner, driver or other person having the care of a vehicle shall drive such vehicle, or allow it to be driven, in a public street against or afoul of any person, vehicle, or thing whatsoever.

Vehicles not to be driven against any person, other vehicle, etc. R. O. p. 165.

SECT. 18. No owner, driver, or other person having charge of a vehicle shall drive such vehicle, or allow it to be driven, around the corner of a street with the horse or horses attached thereto travelling at a gait faster than a walk.

Vehicles not to be driven around corners, except at a walk. R. O. p. 165.

SECT. 19. No person shall ride upon the steps of an omnibus, or upon any other vehicle, without the permission of the driver or other person having the charge thereof.

Riding on vehicles without permission forbidden. R. O. p. 165.

SECT. 20. No driver or other person having the care of a vehicle shall drive such vehicle, or allow it to be driven, over a drawbridge with the horses attached thereto travelling at a gait faster than a walk.

Vehicles not to be driven over drawbridges faster than a walk. R. O. p. 165.

NOTES.

The rules contained in this chapter are authorized by P. S. c. 53, § 15, c. 28, § 25.

SECT. 7. This section is held to be valid in *Commonwealth v. Fenton*, 139 Mass. 195; see P. S. c. 28, § 25. See also *Commonwealth v. Robertson*, 5 Cush. 38.

SECT. 8. A somewhat similar prohibition is contained in P. S. c. 93, § 3.

CHAPTER 4.

OF STREET-RAILWAYS.

Section.

1. Street-cars, limit of speed.
2. distance from other cars or vehicles.
3. not to be driven against persons or vehicles, or around corners, except at a walk, etc.
4. not to stop on cross-walks or in front of intersecting streets.
5. to stop at further crossing of intersecting streets.
6. vehicles not to obstruct passage of.

Section.

7. Street-cars, to be stopped at once on appearance of danger.
8. ladies or children not to be allowed to enter or leave while in motion.
9. names of streets to be announced as reached by.
10. Removal of snow from tracks.
11. Salt, brine, etc., not to be used on tracks.

Street-cars,
limit of speed.
R. O. p. 166.

SECTION 1. No street-railway car shall be drawn in a street in the city proper north of Berkeley and Dover streets and the Federal-street bridge at a rate of speed greater than six miles an hour, nor in any other street in the city at a rate of speed greater than seven miles an hour.

distance from
other cars or
vehicles.
R. O. p. 166.

SECT. 2. No driver, conductor, or other person having the care and ordering of a street-railway car shall, except in case of accident or to prevent injury to persons or property, drive or place such car, or the horse or horses attached thereto, or allow the same to be driven or placed, at a street crossing or foot-path, within ten feet of a car or other vehicle in front thereof; nor shall he drive or place the same, or allow the same to be driven or placed, in such close proximity to a car or other vehicle in front thereof as to obstruct or hinder the free passage of vehicles or of persons on foot.

not to be
driven against
persons or
vehicles, or
around corners,
except at a walk,
etc.
R. O. p. 166.

SECT. 3. No driver, conductor, or other person having the care or ordering of a street-railway car shall drive such car, or allow it to be driven, in the streets of the city against or afoul of any person, vehicle, or thing whatsoever; nor shall he drive such car or allow it to be driven around the corner of a street with the horse or horses attached thereto travelling at a gait faster than a walk; and every such driver, conductor, or other person shall, when thereto requested by a police officer, stop such car at any place in a street for the purpose of allowing persons on foot to cross the street in safety.

not to stop on
cross-walks, or
in front of an in-
tersecting street.
R. O. p. 166.

SECT. 4. No driver, conductor, or other person having the care and ordering of a street-railway car shall allow such car to stop on a cross-walk, nor in front of an intersecting street, except to avoid collisions or to prevent danger to persons in the street.

SECT. 5. When the driver, conductor, or other person having the care or ordering of a street-railway car is required to stop his car at the intersection of two streets to receive or land passengers, the car shall be stopped so as to leave the rear platform slightly over the farther crossing.

Street-cars to stop at farther crossings of intersecting streets.

R. O. p. 167.

SECT. 6. The driver or conductor of a street-railway car shall give notice or warning to vehicles which obstruct the tracks in front of the car of which he has the care or ordering by striking the bell attached to his car several times in quick succession, and no person having the care or ordering of a vehicle shall, after such notice or warning, continue to delay or hinder the passage of the car.

vehicles not to obstruct passage of.

R. O. p. 167.

SECT. 7. The conductors, drivers, and other persons having the care or ordering of street-railway cars shall keep a vigilant watch for all teams, carriages, and persons on foot, especially children, either on the track or moving in the direction of the track; and on the first appearance of danger to such teams, carriages, or persons, or of any other obstruction, the car shall be stopped in the shortest time and space possible.

to be stopped at once on appearance of danger.

R. O. p. 167.

SECT. 8. The conductors, drivers, and other persons having the care or ordering of street-railway cars shall not allow ladies or children to enter or leave such cars while they are in motion.

ladies or children not to be allowed to enter or leave while in motion.

R. O. p. 167.

SECT. 9. Every conductor of a street-railway car shall announce to the passengers therein the names of the principal streets as the car reaches them.

names of streets to be announced as reached by.

R. O. p. 167.

SECT. 10. The several street-railway corporations shall not run snow-ploughs or remove snow from their tracks in the streets of the city, unless they remove from such streets, outside of their tracks and between their rails and the sidewalks, an amount of snow sufficient to make such streets safe and convenient for public travel; and all removal of snow from the streets by such corporations shall be done under the direction and to the satisfaction of the superintendent of streets.

Removal of snow from tracks.

R. O. p. 167.

Salt, brine, etc.,
not to be used
on tracks.
R. O. p. 167.

SECT. 11. The several street-railway corporations shall not, for the purpose of melting the snow on their tracks or rails, sprinkle any salt or other article of a decomposing nature thereon, or cause or allow such sprinkling to be done by any of their agents; nor shall they for such purpose wash their tracks or rails, or cause them to be washed by any of their agents, with brine or pickle, except by the permission of the board of health.¹

¹The following additional order was approved April 6, 1886:—

Ordered, That the following additional rules and regulations be and the same are hereby established to govern the running of street-cars in the streets of the city of Boston,—

SECTION 1. No car shall stop in front of any depot except to receive and discharge passengers.

SECT. 2. On Washington and Tremont streets, between Cornhill and Boylston streets, cars shall not wait for passengers, but stop only for those passengers who may be ready to enter the car as soon as stopped.

SECT. 3. Drivers of horse-cars shall trot their horses whenever practicable.

Ordered, That the Board of Police be hereby requested to take such action as may be necessary to insure the running of the several lines of horse-cars in the streets of the city in conformity with the plan laid down in the foregoing orders, and also to enforce the observance of the Rules and Regulations of the Board of Aldermen for the running of street-cars.

NOTES.

Rules concerning “the rate of speed, mode of use of the tracks, and removal of ice and snow therefrom,” are authorized by P. S. c. 113, § 27. A penalty for the breach of such rules is provided by P. S. c. 113, § 28.

In the exercise of the power given to the board of aldermen to make regulations as to the removal of snow and ice from the tracks of street-railway companies, the board may prohibit the removal of such snow and ice at any and all times, or they may require and permit such removal to be made only when it is allowed, and in a manner to be designated, by the superintendent of streets or by such other officers as have charge of the condition and repair of streets. *Union Railway Co. v. Mayor and Aldermen of Cambridge*, 11 Allen, 287.

SECT. 6. The rule contained in this section is authorized by P. S. c. 113, § 36, and a penalty for obstructing or delaying a street-railway car is provided by P. S. c. 113, § 37.

The board of aldermen have authority to make rules on certain other matters relating to street railways under P. S. c. 113, §§ 29, 44.

CHAPTER 5.

OF THE MOVING OF BUILDINGS IN PUBLIC STREETS.

Section.

1. Applications how made.
2. form of.
3. Written consent of certain parties to be filed.

Section.

4. Permits to be granted only to practical movers.
5. Bond for damages to be filed.
6. Shade-trees, fire-alarm wires, and street-lamps not to be disturbed, except, etc.

SECTION 1. All applications for moving buildings through the streets of the city shall be made to the board of aldermen, and referred to a committee for consideration and report.

Applications, how made.
R. O. p. 169.

SECT. 2. Every such application shall state the location of the building proposed to be moved, its length, width, height, and the principal material of its exterior sides and of its roof; and shall definitely describe the route over which it is to be moved and the length of time that will be required to move it.

Applications, form of.
R. O. p. 169.

SECT. 3. Every such application shall be accompanied by the written consent of the inspector of buildings, to the placing of the building on the lot proposed; and also by the written consent of all railroad corporations whose tracks are to be crossed or encumbered by the moving of the building.

Written consent of certain parties required.
R. O. p. 169.

SECT. 4. Permits for the moving of buildings shall be granted only to practical building movers who are known to be engaged in such business.

Permits to be granted only to practical building movers.
R. O. p. 169.

SECT. 5. Before such a permit is issued, the building mover to whom it is granted shall have filed with the city clerk a bond in a sum not less than one thousand dollars, and with two or more sureties, one of whom shall be the owner of the building, to indemnify and save harmless the city from all damages which may be caused to persons or property by reason of the moving of the building.

Bond for damages to be filed.
R. O. p. 169.

SECT. 6. No shade tree shall be removed or the branches thereof cut or trimmed in order to facilitate the moving of a building, except by the written consent of the board of aldermen; no fire-alarm telegraph wire shall be cut for said purpose, except by the written consent of the board of fire commissioners; and no street lamp or lamp-post shall be removed for said purpose except by the written consent of the superintendent of lamps.

Shade trees, fire-alarm wires, and street lamps, not to be disturbed, except, etc.
R. O. p. 169.

NOTES.

By P. S. c. 53, § 17, and P. S. c. 28, § 2, the moving of buildings through the streets of cities, except by the written permission of the board of aldermen, is forbidden.

SECT. 6. As to the power of the board of aldermen to direct the removal of shade-trees, see *McCarthy v. Boston*, 135 Mass. 197, 200. As to their power to make regulations in respect to street-lamps, see St. 1825, c. 3, § 1. As to the city's liability for injuries caused by fire-alarm telegraph wire when being removed for a purpose not connected with the fire department, see *Neuert v. Boston*, 120 Mass. 338.

CHAPTER 6.

OF COAL-HOLES AND VAULTS UNDER SIDEWALKS.

Section.

1. Licenses for excavations or openings in streets or under sidewalks, how issued and revoked.
2. Applications for such licenses, etc.
3. Coal-holes and vaults under sidewalks, how to be constructed.
4. owners of estates liable for injuries caused by want of repair, etc.
5. occupants of estates liable for damages by insecurity of, etc.

Section.

6. Coal-holes, certain things not to be located in, etc.
7. Excavations under sidewalks may be ordered to be closed.
8. provisions when not properly covered or secured.
9. not to be left open, except, etc.
10. not to be used for other purposes than asked for, and may be revoked at any time.

SECTION 1. The superintendent of streets may issue the licenses mentioned in section five of chapter twenty-eight of the Revised Ordinances, for the making of excavations or openings in streets or under sidewalks, and all such licenses shall be subject to the provisions of this chapter, a copy of which shall be printed on each license, and a violation of any of said provisions shall work a forfeiture of all privileges granted by the license. All such licenses may at any time be revoked by the board of aldermen.

Licenses for excavations or openings in streets, or under sidewalks, how issued and revoked.

R. O. p. 170.

SECT. 2. No such license shall be granted except upon an application in writing signed by the applicant and setting forth the dimensions of the proposed excavation or opening and the purpose for which it is to be used ; and the applicant shall also be required to sign, before the license is granted, an agreement to conform on his part to all the provisions and requirements of this chapter.

Applications for such licenses, etc.

R. O. p. 170.

SECT. 3. Every coal-hole and vault under a sidewalk shall be constructed as follows : The outer wall next to the carriage-way or roadway shall be formed of heavy granite, of not less than two and one-half feet in thickness, and shall be laid with good cement, and no part thereof shall project beyond the edge-stone ; the sides shall be at least one foot thick, and composed of good hard bricks or granite blocks, laid in cement mortar ; the top shall be formed either by a brick arch or arches turned in a good and substantial manner, or by rough-hammered granite at least one foot thick, or by blue stone or North-river flag-stone at least six inches thick, or by iron and glass, or rough surface iron, similar in character to the "Hyatt Light," so called. Each coal-hole or vault thus constructed shall not exceed eleven feet in depth, measuring from the top of the sidewalk. The opening in a sidewalk over a coal-hole or vault shall not exceed eighteen inches in diameter, and shall be covered with a substantial

Coal-holes and vaults under sidewalks, how to be constructed.

R. O. pp. 170, 171.

iron plate with a rough surface to prevent accidents. The entire construction of all coal-holes or vaults shall be subject to the direction and supervision of the superintendent of streets, or of such other person as the board of aldermen may designate. When a coal slide is placed in a sidewalk, it shall be constructed with at least eight-inch brick walls laid in good cement mortar, and the whole shall be covered as before mentioned.

owners of estates liable for injuries caused by want of repairs, etc.
R. O. p. 171.

SECT. 4. The owner and tenant of the estate in front of which a coal-hole or vault is constructed shall be responsible to the city for any and all damages to persons or property in consequence of any defect in the construction of such coal-hole or vault, or by means of the same or any portion thereof being allowed to remain out of repair; and such owner and tenant shall be required to keep the said coal-hole or vault and its walls or coverings in good order at all times.

occupants of estates liable for damages by insecurity of, etc.
R. O. p. 171.

SECT. 5. The occupant of the estate in front of which a coal-hole or vault is constructed shall be responsible to the city for any and all damages occasioned to persons or property in consequence of the opening in the sidewalk being left uncovered, or from the covering thereof being left insecure or unfastened; and such occupant shall be required to keep such coal-hole or vault-cover in good order and safe for public travel over the same.

certain things not to be located in, etc.
R. O. p. 171.

SECT. 6. No boiler, steam-shaft, furnace, or steam-pipe, and no cesspool, privy, or water-closet shall be constructed or located for use in a coal-hole or vault under a sidewalk, and no explosive substance or inflammable oil shall be stored in such a coal-hole or vault, and no such coal-hole or vault shall be ventilated into a street.

Excavations under sidewalks may be ordered to be closed.
R. O. p. 171.

SECT. 7. Any excavation under a sidewalk, whether licensed or not, shall, after one week's notice to that effect, given by the board of aldermen, be closed and filled up at the owner's expense.

provisions when not properly covered or secured.
R. O. p. 171.

SECT. 8. When a coal-hole or vault under a sidewalk, or when an opening constructed in a sidewalk, is not covered or secured as provided in section three, or is in the opinion of the board of aldermen unsafe or inconvenient for the public travel, the said board may order the same to be removed, and a suitable one to be put in its place; and if such order is not complied with within ten days from the service thereof on the owner or tenant of the premises, or other person having the care thereof, the superintendent of streets shall make the required change at the expense of such owner, tenant, or other person having the care of the premises.

not to be left open, except, etc.
R. O. p. 171.

SECT. 9. No person shall leave a coal-hole, excavation, or other opening in a sidewalk open or unfastened in the daytime, unless while it is in use by some person or persons actually attending the same, nor after sunset in any case.

SECT. 10. An excavation or opening made under a license shall not, without the consent in writing of the superintendent of streets, be used for any other purpose than that stated in the application, and every license may at any time be revoked by the board of aldermen.

not to be used
for other pur-
poses than asked
for, and may be
revoked at any
time.

R. O. p. 172.

NOTES.

The regulations of this chapter seem to be made under the general power of the board of aldermen as surveyors of highways, only their executive powers in that capacity being taken from them and vested in the mayor by St. 1885, c. 266, § 6.

SECT. 6. P. S. c. 102, § 47, authorizes the board of aldermen to license and regulate the use of steam-engines. See *Alter v. Dodge*, 140 Mass. 594.

CHAPTER 7.

OF HOISTING GOODS AND SAFES OVER SIDEWALKS.

Section.	Section.
1. Barriers when goods are hoisted or lowered.	3. Licensed parties to indemnify the city.
2. Encumbering of sidewalks, time limited.	4. Licenses may be revoked.
	5. Permits for hoisting or lowering safes.

Barriers when goods are hoisted or lowered.
R. O. p. 173.

SECTION 1. When goods or merchandise are raised or lowered over a street by virtue of a license from the board of aldermen, good and sufficient barriers shall be placed across the sidewalk, from the wall of the building from which they are so raised or lowered to the curb-stone of the sidewalk, on each side of the goods or merchandise so raised or lowered, and such barriers shall be kept in their places during the whole time the work of raising or lowering is in progress, so as to protect travellers from injury or danger.

Encumbering of sidewalks, time limited.
R. O. p. 173.

SECT. 2. The sidewalk shall not be encumbered by such goods or merchandise, or by the raising or lowering thereof, for more than fifteen minutes at any one time.

Licensed parties to indemnify the city.
R. O. p. 173.

SECT. 3. All persons licensed to raise or lower goods outside of buildings shall indemnify and save the city harmless against all damages, costs, and expenses to which it shall be subjected on account of their acts under such license.

Licenses may be revoked.
R. O. p. 173.

SECT. 4. Every such license may be revoked at the pleasure of the board of aldermen.

Permits for hoisting or lowering safes.
R. O. p. 173.

SECT. 5. The inspector of buildings may grant permits to suitable persons to raise and lower safes into and from buildings in the streets of the city, and to occupy in so doing such portions of the streets as the said inspector may deem necessary, subject to such conditions and regulations as he may prescribe for the safety and convenience of the public.

NOTES.

The authority to make rules on the subject of this chapter is given by St. 1816, c. 90, § 4, the power vested by that statute in the selectmen being vested in the board of aldermen by § 33 of the city charter.

CHAPTER 8.

OF FANEUIL HALL.

Section.

1. Fees for use of.
2. Decorations not to be put up, except, etc.

Section.

3. Applicants for use of to be severally liable for damages.
4. Superintendent to account for fees to city collector.

SECTION 1. When the use of Faneuil Hall is granted to any person or persons for holding a meeting or levee, or for any other purpose, the superintendent of said hall shall be paid in advance for opening and closing the hall in the daytime a fee of ten dollars, and for such opening and closing in the evening a fee of fifteen dollars, the said fees to include the expense of any necessary lighting and warming of said hall, but not the expense of any police officers who may be required, the expense of such officers being defrayed by the applicants. Fees for use of.
R. O. p. 174.

SECT. 2. No decorations shall be put up in said hall without a special order from the board of aldermen, and when they are put up in accordance with such an order, no nails or screws shall be driven into the building. Decorations not
to be put up, ex-
cept, etc.
R. O. p. 174.

SECT. 3. The persons upon whose application the use of the hall is granted shall be answerable, jointly and severally, for all damage done to the hall at or in connection with the meeting for which such use is granted. Applicants for
use of to be sev-
erally liable for
damages.
R. O. p. 174.

SECT. 4. The said superintendent shall pay monthly to the city collector all the excess of the moneys received by him for the use of the hall, over the amounts expended by him for cleaning the hall, for gas, and for other expenses, the vouchers for all which expenses shall be exhibited. Superintendent
to account for
fees to city col-
lector.
R. O. p. 174.

NOTES.

As to the power and duty of the board of aldermen to make rules and regulations in regard to Faneuil Hall, see City Doc. 1851, no. 33, and 1852, no. 48. All the executive powers of the board in that regard are taken from it by St. 1885, c. 266, §§ 6, 12, and "the entire care and management of all public buildings and other property" vested in the appropriate executive officer (St. 1885, c. 266, § 6), who in this instance is the superintendent of public buildings. See Chap. 36, § 7, of the Ordinances, *ante*, p. 124.

CHAPTER 9.

OF THE INSPECTION, MEASUREMENT, AND SALE OF CERTAIN ARTICLES.

Section.	Section.
1. Surveyors of marble, soapstone, and freestone, appointment.	<i>Grain.</i>
2. Duties.	6. Fees for measuring.
3. Fees.	<i>Petroleum.</i>
4. Certificates to be given by.	7. Fees for inspecting.
5. Penalty for selling marble, etc., not surveyed.	<i>Wood and Bark.</i>
	8. Fees for measuring.

Marble, Soapstone, and Freestone.

Surveyors of
marble, etc., ap-
pointment.
R. O. p. 175.

SECTION 1. There shall be appointed annually by the mayor, subject to confirmation by the board of aldermen, one or more surveyors of marble, soapstone, and freestone, who shall be sworn to the faithful discharge of the duties of their office.

Duties.
R. O. p. 175.

SECT. 2. It shall be the duty of the said surveyors to survey and measure all marble, soapstone, and freestone that is imported or brought into the city and offered for sale, and to ascertain the number of cubic feet in each block and the number of square feet in each slab of such marble, soapstone, or freestone, and legibly to mark such number thereon with the initials of the officer making the survey, and the said officer shall give to the owner or vendor of such article a certificate in the form hereinafter provided.

Fees.
R. O. p. 175.

SECT. 3. The fees for surveying marble, soapstone, and freestone shall be one and one-half cents for each cubic foot, and three-fourths of a cent for each square foot surveyed as above directed, and such fees shall be paid to the surveyor by the owner or vendor of the article surveyed.

Certificates to be
given by.
R. O. p. 175.

SECT. 4. The certificate to be given to the owner or vendor of marble, soapstone, or freestone, which has been surveyed shall specify the name of such owner or vendor, the name of the place from which the article surveyed was imported or brought, the number of cubic feet in each block and the number of square feet in each slab surveyed, the amount of fees received, and the date of the certificate.

Penalty for sell-
ing marble, etc.,
not surveyed.
R. O. p. 175.

SECT. 5. Whoever sells marble, soapstone, or freestone imported or brought into the city, which has not been surveyed as above required, shall be liable to a penalty of not more than fifty dollars for each offence.

Grain.

SECT. 6. The fees for measuring wheat, corn, and other grains shall be three-quarters of a cent a bushel, which shall be in full for all services rendered by the measurer or by his deputies.

Fees for measuring.
R. O. p. 176.

Petroleum.

SECT. 7. The compensation of the inspectors of petroleum and its products shall be as follows: for every inspection of a sample of oil, or for a lot of ten barrels or less, they shall be paid the sum of fifty cents; for every lot of more than ten barrels they shall be paid five cents for each barrel inspected after it has been placed in position and the bung removed.

Fees for inspecting.
R. O. p. 176.

Wood and Bark.

SECT. 8. The fees for the measurement of wood and bark brought into the city by land or water shall be at the rate of ten cents a cord.

Fees for measuring.
R. O. p. 176.

NOTES.

SECTS. 1-5. These regulations are authorized by P. S. c. 60, § 53.

SECT. 6. It is provided by P. S. c. 60, § 27, that the fees of measurers of grain shall be prescribed by the mayor and aldermen. The other provisions relative to the measuring of grain are to be found in P. S. c. 60, §§ 21-28.

SECT. 7. This rule is required by P. S. c. 59, § 6. See also Revised Ordinances of 1885, c. 52.

SECT. 8. This provision is required by P. S. c. 60, § 75. See also P. S. c. 60, §§ 76, 78, and Revised Ordinances of 1885, c. 56, § 3.

CHAPTER 10.

OF THE REGULATION OF PLACES OF PUBLIC AMUSEMENT.

Section.

1. Licenses, how granted.
2. not to be granted for pugilism or wrestling.
3. Fees.
4. Licensees to comply with these regulations.
5. Who may enter and inspect.
6. Automatic skylights over stages of theatres.
7. Exits to be marked, etc.

Section.

8. Gas-piping.
9. Automatic sprinklers.
10. Stand-pipes, hose, etc.
11. Portable seats not allowed in passage-ways.
12. Firemen.
13. Police officers.
14. Only regular or special police officers to be employed to preserve order.

Licenses, how
granted.

SECTION 1. Licenses will be granted by the board of aldermen; but during vacation or between the sessions of the board, the committee on licenses, or their chairman, may grant a permit for any public amusement, and the city clerk shall make a record thereof; such permit, when recorded, shall have the full authority of, and be subject to, the conditions of a regular license. All licenses for a theatrical season shall expire on the first day of August next after the date of the license.

not to be
granted for
pugilism or
wrestling.

SECT. 2. No licenses shall be granted for exhibitions of pugilism or wrestling, and this rule shall not be suspended, as regards exhibitions of pugilism, except by unanimous consent of the board of aldermen.

Fees.

SECT. 3. The following fees shall be charged for licenses for theatrical exhibitions, public shows, public amusements, and exhibitions of every description to which admission is obtained upon payment of money, or the delivery of any valuable thing, or by any ticket or voucher obtained for money or any valuable thing, viz. :—

For a license covering one performance or exhibition, the fee shall be one dollar; for a license covering performances or exhibitions for a term not exceeding six days, the fee shall be two dollars; for a license covering performances or exhibitions for a term exceeding six days and not exceeding twelve days, the fee shall be three dollars; for a license covering a period of more than fourteen days and not exceeding one theatrical season, the fee shall be five dollars; provided, however, that for a license for any circus the fee shall be one hundred dollars; and for a license for any athletic entertainment, the fee shall be ten dollars; the fees to be paid to the city clerk on the delivery of the license.

Licenses to
comply with
these regula-
tions.

SECT. 4. Every licensee shall be held to comply with these rules and regulations, and such others as this board may

from time to time prescribe, and any infraction thereof shall be deemed sufficient cause for the revocation of the license.

SECT. 5. The board of aldermen reserve the right of entering and inspecting all places of amusement at all times, either individually or collectively, and the same right is reserved for the corporation counsel, the city solicitor, the board of police, the superintendent, deputy superintendent, chief inspector and inspectors of police, the fire commissioners, the chief engineer of the fire department and the assistant engineer having charge of the district in which any place of amusement is situated, upon the exhibition of a badge of office.

Who may enter and inspect.

SECT. 6. There shall be one or more automatic skylights over the stage of every theatre.

Automatic skylights over stages of theatres.

SECT. 7. All exits of every place of public amusement shall be marked with the word "Exit" in large letters over the same, and shall be so constructed as to be easily opened by the audience in case of fire.

Exits to be marked, etc.

SECT. 8. Every theatre shall be so piped that the gas can be shut off separately from the stage, auditorium, and lobbies, without interfering one with the other.

Gas-pipes.

SECT. 9. There shall be such automatic sprinklers, or other equivalent devices, in every theatre, as in the opinion of the committee on licenses may be needed.

Automatic sprinklers, etc.

SECT. 10. There shall be in every place of public amusement such amount of stand-pipes and hose, and number of water-pails, axes, and chemical extinguishers, as the fire commissioners from time to time determine to be necessary.

Stand-pipes, hose, etc.

SECT. 11. No portable seats shall be placed in the aisles or passage-ways of any place of public amusement.

Portable seats not allowed in passage-ways.

SECT. 12. A fireman, approved of by the board of fire commissioners, shall be stationed by the management on the stage of every theatre during all performances, who shall have sole charge of the fire apparatus, and who shall, while so engaged, be clothed in the uniform of the fire department.

Firemen.

SECT. 13. There shall be a member of the regular police force, detailed for the purpose by the board of police, stationed in every place of amusement during all performances, whenever the committee on licenses may so require; the amount to be paid for his services to be fixed and collected by the board of police.

Police officers.

SECT. 14. No other persons shall be employed for the preservation of order in any theatre except members of the regular police force or special police officers appointed therefor by the board of police.

Only regular or special police officers to be employed to preserve order.

NOTES.

These regulations are authorized by P. S. c. 102 § 115.

SECT. 1. It would seem that a license granted by the committee or its chairman would be void, the granting of licenses being a judicial function conferred upon the entire board. *Day v. Green*, 4 Cush. 433, 438-9.

TABLE

SHOWING THE DISPOSITION THAT HAS BEEN MADE OF THE ORDINANCES AND REGULATIONS CONTAINED IN THE VOLUME OF "REVISED ORDINANCES" ADOPTED IN 1882, AND IN THE SUPPLEMENTS THERETO. WHEREVER A SECTION OF THE SAID ORDINANCES OR REGULATIONS HAS RECEIVED ANY ALTERATION OR ADDITION, OR WHERE ANY PART OF IT HAS BEEN OMITTED IN THE CORRESPONDING SECTION OR SECTIONS OF THE "REVISED ORDINANCES OF 1885," OR OF THE STANDING REGULATIONS OF THE BOARD OF ALDERMEN HEREIN PUBLISHED, THE FACT IS INDICATED IN THE FOLLOWING TABLE BY THE WORD "AMENDED."

MATTER DISPOSED OF.	R. O. of 1885, c. 1, § 1.
R. O., c. 1, § 1 . . . . .	. Amended, § 2.
§ 2 . . . . .	. Amended, § 3.
§ 3 . . . . .	. §§ 4-8.
§§ 4-8 . . . . .	. c. 2, §§ 1-4.
c. 2, §§ 1-4 . . . . .	. Amended, c. 3, § 1.
c. 3, § 1 . . . . .	. § 2-4.
§§ 2-4 . . . . .	. Amended, § 5.
§ 5 . . . . .	. § 6-8.
§§ 6-8 . . . . .	. Amended, c. 4, § 1.
c. 4, § 1 . . . . .	. Amended, §§ 2, 10.
§ 2 . . . . .	. Amended, § 3.
§ 3 . . . . .	. Amended, § 4.
§ 4 . . . . .	. § 5.
§ 5 . . . . .	. Amended, § 6.
§ 6 . . . . .	. Amended, § 7.
§ 7 . . . . .	. Amended, § 9.
§ 8 . . . . .	. Amended, § 10.
§ 9 . . . . .	. Amended, § 11.
§ 10 Amended, c. 5, § 1.
c. 5, § 1 § 2-6.
§§ 2-6 Amended, § 1.
§ 7 Amended, c. 6, § 1.
c. 6, § 1 Amended, § 2.
§ 2 Amended, § 3.
§ 3 § 4-5.
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§ 9	Repealed. See St. 1885, c. 374, §§	
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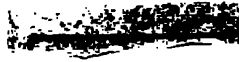
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